

ORDER NO. 00-068

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**BEFORE THE PUBLIC UTILITY COMMISSION
OF OREGON**

AR 365

In the Matter of Amendments to Division)
032 Rules Relating to Telecommunications)

ORDER

DISPOSITION: RULES ADOPTED

INTRODUCTION

On September 7, 1999, the Public Utility Commission of Oregon (Commission) opened this docket to consider revisions to Division 032 of the administrative rules first adopted in 1986, OAR 860-0032-0001 *et seq.* Division 032 implemented Oregon laws relating to encouraging the growth of competition and the emergence of competitive providers in the telecommunications industry. This proceeding was opened to broadly review and update the Division 032 rules to reflect the changes in the legal and regulatory environment since 1986.

On September 9, 1999, the Commission filed a Notice of Proposed Rulemaking with the Oregon Secretary of State, which was published in the October 1, 1999, *Oregon Bulletin*. Copies of the proposed rules, the Notice of Proposed Rulemaking Hearing, and the Statement of Need and Fiscal Impact were also sent to a list of interested parties who were invited to a workshop held on November 4, 1999. The parties identified concerns with the current rules and the original drafts of the proposed rules. Written comments were filed November 17, 1999. Staff proposed further changes in its written comments. Thereafter a hearing was held on December 7, 1999. Additional changes were made as a result of the hearing.

The Commission considered this matter at its Public Meeting on February 8, 2000. The Commission adopts the proposed rules as modified and set forth in Appendix A to this order.

BACKGROUND

In the years following the adoption of the original rules in Division 032, competition in both the interexchange and intraexchange markets has increased dramatically, and new legislation impacting the telecommunications marketplace has been enacted at both the federal level and in the state of Oregon. The Commission has already adopted, and currently has under consideration, a number of rule changes to Division 032, each of which addresses one or more specific issues. However, many of the more general rules, originally adopted over a decade ago, no longer reflect the current state of either the law or the marketplace and regulatory environment. Other Division 032 rules have been found, through time and experience, to be either vague, ambiguous, or inaccurate in representing the intent of the Commission. This rulemaking provides an opportunity for interested parties to bring to the Commission the benefit of their experience and to voice their concerns on both the existing and proposed rule language.

THE PROPOSED RULE CHANGES

Every rule in Division 032 is being revised to some extent, with the exceptions of OAR 860-0032-0070, 0100 and 0200. However, a number of the changes are minor wording and housekeeping revisions. They are noted in Appendix A but are not discussed. A new rule, OAR 860-0032-0007, has been added. The rules we adopt are the product of changes to current rules proposed by Staff at the Commission's September 7, 1999, public meeting, the workshop discussions, and modifications proposed in Staff's written comments, comments filed by interested parties, and comments made at the hearing.¹

In addition to the Commission Staff submission, written comments were filed by the following parties: U S WEST Communications, Inc. (USWC), AT&T Communications of the Pacific Northwest, Inc. and AT&T Local Services on behalf of TCG Oregon (collectively AT&T), Western States Competitive Telecommunications Coalition (WSCTC)², MCI WorldCom, Inc. (MCIW), Rhythms Links, Inc. (RLI), Oregon Telecommunications Association Small Company Committee (OTA), GTE Northwest Incorporated and GTE Communications Corporation (collectively GTE), Beaver Creek Cooperative Telephone Company (BC) and the Oregon AARP. With the

¹ For purposes of discussion, when a rule proposed by Staff at the September 7, 1999, public meeting contains a subsection, which is in addition to, or completely replaces, an existing subsection, it is referred to as a "new subsection." When a proposed rule contains a subsection whose language consists of a modification of the language of an existing subsection in the current rule, it is referred to as a "modified subsection." When a rule proposed by Staff has been modified by subsequent events, that circumstance will be discussed in the text.

² WSCTC consists of the following companies: Advanced TelCom Group, Inc., Electric Lightwave, Inc., GST Telecom, Inc., Integra Telecom, NEXTLINK Communications, Inc. and Winstar Communications, Inc.

exception of BC and the Oregon AARP, all of the parties also appeared at the hearing. The proposals of Staff, and the comments of the parties are summarized by rule.

860-0032-0001 Definitions

New Subsection (2) and Modified Subsection (10). Staff proposes to add a new subsection (2) to provide a definition of “Cooperative,” and renumber the remaining subsections. The renumbered subsection (10) was amended to include cooperatives within the definition of “Telecommunications Providers.” OTA objects to the latter revision, claiming that it would subject cooperatives to all future Division 032 rules and create confusion, since cooperatives are either specifically exempt under Oregon law or are not within the span of the Commission’s jurisdiction.

Modified Subsection (7). Although not proposed by Staff, GTE recommends that the last two sentences of the newly-renumbered subsection (7), “Price-Listed Service,” be deleted because they are substantive, rather than definitional.³ GTE also argues that, when they are applied to ORS 759.030(6) and 759.050(5)(a), which provide that the changes to rates in price lists are effective upon filing with the Commission unless the company designates some later effective date, these sentences are inaccurate.

Disposition: The new subsection (2) and modified, newly-renumbered subsection (10) are adopted. Whether or not any class of telecommunications providers, including cooperatives, is subject to particular aspects of Commission jurisdiction, is determined by Oregon law. The presence of the definitions removes ambiguity without exerting any substantive effect upon the Commission’s jurisdiction. If provisions of Oregon law deprive the Commission of jurisdiction over a particular class of providers or services, then the Commission cannot assert jurisdiction by adopting these rules. However, we disagree with OTA’s objections. As noted in the discussions regarding our underlying statutory authority in our disposition of proposed changes to OAR 860-032-0005, 0007, 0010, 0020 and 0060, cooperatives are, indeed, subject to Commission jurisdiction for a number of purposes which are reflected in the adopted changes to the rules in Division 032.

GTE’s proposals with respect to modified sub section (7) are accepted in part and rejected in part. The first of the sentences in question does, indeed, fail to provide additional precision to the definition and overly simplifies the substance of the applicable rules.⁴ It is deleted. The final sentence of the definition is factually accurate

³ The sentences referred to read as follows: “The prices of such products or services are subject to change without hearing, at the Commission’s discretion. The costs and revenues of a price-listed product or service shall be considered part of the telecommunications utility’s regulated activities.”

⁴ See, e.g., OAR 860-0032-0035(8). Most often, a price change will go into effect without *any* Commission action. When the Commission does act to suspend a price change, it is usually after the fact.

and removes ambiguity about the effect of price-listing a service. It is retained as proposed by Staff.

860-0032-0002 Notice and Procedure

Modified Subsection (1). USWC proposes revising the first sentence of subsection (1) as follows: “All notices initiating a proceeding under this Division, *including, but not limited to, applications, petitions, complaints and other pleadings*, shall be served on all telecommunications providers and all persons on the Commission’s telecommunications mailing list.” Staff agrees with the addition and no other parties objected.

Disposition: The language proposed, which gives additional clarity to the Commission’s intentions, is adopted.

860-0032-0005 Application for New or Amended Certificate of Authority

Staff proposes changes to this rule to reflect the impact of ORS 759.050, the “Competitive Zone” statute, on the Commission’s processes for applications for certificates of authority.

Modified Subsections (1), (2) and New Subsection (3). Staff proposes changes in (1) and (2), which are supported by GTE.⁵ GTE questions the need to delete the second sentence of (2).⁶ Staff contends there is no need for competitive providers or cooperatives to petition for exemption from regulation. The provision has never been used in the 13 years that the rule has been in effect. Staff also proposes to add a new subsection (3) to allow a telecommunications utility to concurrently petition to exempt or price list services separate from the certificate application. No other parties commented on the proposed change.

New Subsection (4). Staff proposes to clarify that Oregon law does not provide for transfer of certificates, citing ORS 759.020(1).⁷ Even if permissible, Staff asserts that a procedure to transfer certificates would require public notice pursuant to OAR 860-0032-0002 and would therefore have little if any positive effect on Commission resources. Comments in opposition to the rule were filed by AT&T, WSCTC, MCIW, RLI, and GTE. GTE poses questions about the implications of the rule

⁵ “(1) No person shall provide *intrastate* telecommunications service *on a for hire basis* . . .” “(2) Any person intending to provide *intrastate* service in Oregon . . .”

⁶ “The application may include a petition to exempt services from regulation under OAR 860-0032-0025, or to price list services under OAR 862-0032-0035.”

⁷ “No person . . . shall provide intrastate telecommunications service on a for-hire basis without a certificate of authority issued by the Public Utility Commission under this section.”

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and how its meaning may be interpreted in ways that would create unnecessary hardship on the transferee. AT&T and WSCTC argue that there is no statutory prohibition on the assignment or transfer of certificates, and that the proposed rule is inconsistent with current law. AT&T recommends that the rule be changed to state “Certificates of authority may not be transferred or assigned without the prior consent of the Commission.” WSCTC claims that the rule is not in the public interest. WSCTC, MCIW, and RLI propose that the Commission adopt streamlined procedures that would reduce the time necessary for the assignee or transferee to obtain the necessary certificates, but do not describe such proposed procedures.

New Subsection (8)(a). After some discussion, all parties agree that the new language should retain the proviso that a protest under this section may be filed only by an “interested person.”

New Subsection (8)(b). This new subsection, in which all parties now concur, allows telecommunications utilities to become parties to a certification proceeding by filing a notice letter, rather than a formal protest.

New Subsections (9), (10) and (11). These new subsections, in whose language all parties, except OTA and BC, now concur, set forth the procedures and rights of parties with respect to holding a certification hearing. New subsection (9) sets forth the statutory authority; new subsection (10) describes the circumstances under which an application may be subject to a hearing. New subsection (11) provides additional criteria and procedures where the application is for local exchange service other than shared service. OTA objects to the deletion of the original subsection (10)⁸ because, it contends, the deletion of the section, coupled with the new definition of “telecommunications service providers,” will subject cooperatives to additional regulation. BC makes similar, but more generalized observations.

Staff contends that the legal analyses of OTA and BC are incorrect and that the current rule, itself, is both incorrect and overbroad. Indeed, while current subsection (10) states that cooperatives are not subject to ORS 759.015, *et seq.*, in fact, ORS 759.025(2) deals exclusively with telephone cooperatives. Although ORS 759.025(2) states that granting cooperatives continuing certificates of authority “shall not subject such cooperative corporations or associations to the commission’s general powers of regulation,” it does not proscribe *every* form of oversight. In fact, there are specific areas where Oregon law gives the Commission jurisdiction over cooperatives to their benefit (e.g., the rules allowing an incumbent to protest, or become a party to an application proceeding, apply to incumbent cooperatives as well as

⁸ “(10) Cooperative corporations organized under ORS Chapter 62 are not subject to ORS 759.015 *et seq.* or Division 0032 of the Commissions rules except OARs 860-034-0750 and 860-0032-0100. Nothing in Division 0032 shall have any effect on the integrity of a cooperative’s territorial allocation granted under ORS 758.400 *et seq.*”

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telecommunications utilities). Cooperatives may also apply for authority to be competitive providers of telecommunications services, in which case the rules of Division 032 would apply to them (see discussion in Rule 860-0032-0010 Disposition, *infra*).

Disposition: New subsections (1), (2) and (3) are adopted as proposed by Staff. New subsection (4) is modified to include the language offered by AT&T. The Commission disagrees with Staff's interpretation of ORS 759.020(1) (footnote 7, *supra*). Whether a new certificate for an existing service territory is issued, or the certificate from a previous issuee is transferred with the Commission's approval, either method satisfies the requirements of the statute. However, in the absence of concrete proposals to streamline the administrative process, we do not adopt new procedural rules at this time. New Subsections (8), (9), (10), and (11) are adopted as modified. The Commission concludes that Staff has reasonably interpreted the scope of applicability of ORS 759.025(2) to the proposed rule (see discussion, above) and disagrees with those parties who assert that the proposed changes to our procedural rules conflict with our statutory authority.

860-0032-0007 Conditions of Certificates of Authority

New Subsections (5) and (16). Staff proposed a number of substantive changes as well as a reorganization of various sections. In response to comments from GTE, Staff now proposes, and all parties concur, in modifications to new subsection (5) and new subsection (16) language that requires certificate holders to pay access charges and subsidies required by Commission "orders, tariffs, or price lists," as well as paying taxes, fees, or assessments as required by "orders" as well as rules.

New Subsection (8)(b). This new subsection denies a telecommunications utility the right to disconnect utility service for nonpayment of charges for competitive provider services or unregulated utility services. GTE objects to the proposed language on the grounds that it singles out telecommunications utilities and is thus not competitively neutral.

New Subsection (14). Staff proposes that competitive service providers not be permitted to file price lists or schedules with the Commission. AT&T and MCIW indicate their preference to be able to file permissive tariffs with the Commission, an arrangement which, MCIW notes, exists in many states. AT&T indicates that, while many competitive providers are targeting only the business market, it is AT&T's intention to pursue the residential market. AT&T contends that it would be difficult to compete in that market if it has to address each residential user with a separate contract rather than simply referring to a tariff, as the incumbent telecommunications utility may do. MCIW also cites the burden of individual, book-sized contracts with residential and small business customers and the desirability of a single document for large classes of customers and establishing terms of offerings for casual customers (e.g. 10xxx, coin and

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commercial credit card). AT&T and MCIW both voice concerns that electronic filing or Internet website posting of tariffs might not provide legally sufficient notice. Staff, in turn, cites administrative burden on the Commission and public confusion regarding the apparent state approval of competitive service offerings on which the Commission has not passed judgment. Staff voices its concern that the filing of such tariffs will impose clerical obligations on the Commission, which it cannot meet.

New Subsection (15). As originally offered, the proposed rule stated that competitive providers would have to comply with Commission rules. In response to comments filed with the Commission, the proposed rule has been modified and now reads that providers would comply with “applicable” rules. OTA argues that the Commission lacks jurisdiction to require cooperatives to comply with these rules.

Disposition: The proposed new and modified subsections of the rule are adopted with the exception of proposed subsection (14). The language in new subsection (8)(b) supports the Commission policies reflected in the rules of Division 021⁹ and thus the change is not a substantive one. We do not adopt new subsection (14) at this time because we lack a sufficient record to determine whether the permissive filing of tariffs will, indeed, further the growth of competition and customer choice in the provision of telecommunications services or what the impact of the Commission’s acceptance of these filings will be on both the Commission’s administrative functions and the public. Several of the parties claim that the ability to permissively file tariffs for competitive services provides a more certain, swift, and stable business environment, thereby encouraging the growth and dissemination of competitive services. We are also aware of concerns noted by Staff as to the clerical burdens and potential for public confusion as to whether the Commission has reviewed, much less approved, such tariffs. We may therefore, leave for a separate rulemaking proceeding, the positions and procedures which we should adopt on the issue of filing permissive tariffs for competitive services. With respect to OTA’s contention about the Commission’s general lack of jurisdiction, we note our comments in the disposition of 860-0032-0005, *supra*.

860-0032-0010 Classification of Applicants

New Subsections (2), (4), and (5). The purpose of this proposed rule is to clarify that, whenever a telecommunications utility or cooperative provides local exchange service or interexchange service outside of its service territory, it is doing so as

⁹ ORS 860-021-0305 Grounds for Disconnecting Utility Service. “Utility service may be disconnected: (5) For failure to pay Oregon tariff or price-listed charges due for services rendered . . .” and ORS 860-021-0505 Disconnection Procedures for All Commercial Electric and Natural Gas Customers and All Telecommunications Utility Customers “(8) Except for telecommunications service provided by an office incapable of restricting toll service, a telecommunications utility shall not disconnect or deny local exchange service for an applicant’s or customer’s failure to pay for services not under the local exchange utility’s tariff or price list.”

a competitive service provider. BC asserts, citing ORS 759.025(2), *supra*, that cooperatives are not subject to the Commission's rules when providing competitive services. It contends that a cooperative may freely pursue new customers solely by amending its existing certificate to add service territories, even while behaving, in all other respects, as a competitive telecommunications provider.

Disposition: The rule is adopted. ORS 759.025(2) ensured legal and service continuity on January 1, 1986, the date that new laws regarding competitive service providers became effective. Cooperatives, as well as telecommunications utilities, who were serving particular territories prior to that date, were given statutory authority to continue to do so.¹⁰ BC's assertion is not factually correct. Cooperatives are not exempt from all other sections of ORS Chapter 759. ORS 759.500 to 759.570, for example, explicitly apply to cooperatives.¹¹ ORS 759.505 Purpose of allocation laws, states that ". . . it is necessary to regulate in the manner provided in ORS 759.500 to 759.570, all persons and entities providing telecommunications utility services." ORS 759.510 to 759.530 set forth the procedures for persons providing telecommunications utility services to contract with each other to modify the territorial boundaries which each party is certificated to serve. ORS 759.535 provides the procedures for applications to serve unserved territory. ORS 759.540 sets forth the particular criteria under which such applications will be granted. Indeed, subsection (2) of that statute provides: "The commission, before approving an application for the allocation of territory shall find that the applicant is exclusively serving the territory covered by the application . . ."

Even if we were to accept BC's interpretation of ORS 759.025(2), our actions in adopting this rule are dictated by Section 253 of the Telecommunications Act of 1996, Removal of Barriers to Entry.¹² All parties seeking to provide telecommunications services within a particular area must be regulated in a competitively neutral manner. Applying common regulations to all such parties is a key element to that treatment. At both the state and national level, cooperatives and other small, rural companies receive financial and regulatory treatment reflecting their unique circumstances, tasks and responsibilities. They are relieved from complying with many of the network unbundling and open access requirements and they are protected from uncontrolled market entry in their service areas. However, once they seek to move beyond the scope of their original circumstances and become competitive providers in

¹⁰ "Notwithstanding any other provision of law, the commission shall issue to any cooperative corporation, or unincorporated association providing intrastate telecommunications service on January 1, 1986, a certificate of authority *to continue to provide those services* on and after January 1, 1986." (emphasis supplied).

¹¹ 759.500, Definitions, (2): "Person" includes individuals, firms, partnerships, corporations, associations, cooperatives and municipalities, or their agent, lessee, trustee or referee (emphasis supplied).

¹² "(b) State Regulatory Authority.—Nothing in this section shall affect the ability of a State to impose, *on a competitively neutral basis*, and consistent with section 254, requirements necessary to preserve and advance universal service, protect the public safety and welfare, ensure the continued quality of telecommunications services, and safeguard the rights of consumers." (emphasis supplied).

areas already served by others, federal law requires that they be treated as are all other parties. In sum, if a cooperative seeks to provide service in an area already served by another local exchange carrier (i.e., enters into the business of being a competitive provider) it is bound by the same rules and regulations as are other market participants.

860-0032-0012 Service Standards of Competitive Providers

New Subsection (3) and Modified Subsections (4) and (5). As an interim measure pending the outcome of proceedings currently underway in other dockets, Staff proposes to require all providers, at a minimum, to meet the standard level of service.¹³ Several parties object to the adoption of a new standard at this time either on the grounds of the pendency of other proceedings or the reliance of competitive providers on underlying carriers who may, themselves, fail to meet the required service standards.

Disposition: Staff's proposed changes are adopted. The successful introduction and rapid growth of competition will, in large part, depend on public perceptions of reliable and high-quality service offerings from market participants. Until such time as we adopt comprehensive rules as mandated by Chapter 1093, Laws of 1999 (SB 622), this rule serves an appropriate public purpose. To the extent that a competitive provider's service quality is adversely affected by the services provided by an underlying telecommunications utility, the Commission will take cognizance of the fact and respond appropriately.

860-0032-0020 Notice of Intent to Abandon Services

New Subsections (1), (2), (3), and (4). Staff proposes to streamline the abandonment process by, among other things, permitting an abandonment petition to take the form of an advice letter where there are no customers for the service proposed to be abandoned. In its comments, OTA contends that telecommunications utilities with fewer than 50,000 lines are exempt from the rule's requirements, citing ORS 759.040. Staff disagrees, citing ORS 759.035, 759.030(1), 759.015, and 756.040.¹⁴

Disposition: The rule is adopted as proposed. The Commission disagrees with OTA's contention. ORS 759.040(1) exempts smaller LECs from requirements of ORS 759.180 to 759.190. None of these statutory provisions, however, relate to the

¹³ "Standard Level of Service," as defined by subsections (1) and (2) of this rule, is a 99 percent probability that a call will not be blocked during the hour of the day when the number of calls carried on a provider's network is the highest.

¹⁴ ORS 759.035 imposes a duty to furnish adequate and safe service at reasonable rates. ORS 759.030(1) provides the Commission with authority to determine the manner and extent of regulation of telecommunications services within the state of Oregon. ORS 759.015 charges the Commission with administering the statutes in accordance with a policy of maintaining universal telecommunications service. ORS 756.040 grants general powers to the Commission beyond those powers and mandates specifically enumerated by statute.

abandonment of services.¹⁵ Staff has reasonably interpreted the statutory language with respect to the scope of the Commission's authority in this area. These statutes are sufficient to support a finding that smaller telecommunications utilities are not exempt from the Commission's rules on the abandonment of services.

860-0032-0035 Petition to Price List Service

Modified Subsection (1). Staff proposes language clarifying the applicability of ORS 759.030(6)-(8), which describe the terms and conditions under which the Commission may permit the price listing of competitive or nonessential products and services by telecommunications utilities.

Modified Subsection (5). Staff, concurring with GTE, proposes to change the criteria for price listing a service. The current rule refers to the availability of services from "alternative telecommunications providers." Staff now proposes that providers that do not fall within the definition (e.g., wireless companies) should be considered, and that the word "telecommunications" should be deleted.

New Subsection (6)(d). Staff now proposes a criterion stating that, if a service is essential for one class of affected customers (e.g. end-users), it is essential for all other classes of affected customers (i.e., telecommunications providers, enhanced service providers and radio common carriers). GTE believes that customers in different classes may not be similarly situated and that the rule would prejudice the outcome of a specific situation.

New Subsection (8). Staff proposes that packaged services shall be no less than the tariff rate for essential services plus the long-term incremental cost of the competitive services. GTE asks Staff to give the statutory and policy bases for establishing such a floor and a specific definition of "essential."

Modified Subsection (11). Price list change effective dates. Staff agrees with GTE that ORS 759.030(6) and (8) provide that price lists may be effective immediately on filing and proposes to revise the language of this section accordingly.

New Subsection (12). AARP asks that the Commission be able to order a telecommunications utility to appear before it to establish that its price listed service is, among other things, "affordable." Staff does not propose to adopt the additional criterion.

¹⁵ ORS 759.180 sets forth the hearing procedures relating to the filing of new or increased rates. ORS 759.185 sets forth the requirements relating to rate suspension pending hearing, time limitations, interim rates, and revenue collected subject to refund. ORS 759.190 sets forth the requirements for notice of schedule changes.

Disposition: Staff's proposed changes for Section 860-0032-0035 are adopted. New Subsection (6)(d) enables the Commission to establish reasonably uniform criteria to implement ORS 759.030, consistent with the statute's intent. The pricing standards for packaged services in new subsection (8) are clearly designed to prevent predatory or anti-competitive pricing in markets where competitors must purchase essential¹⁶ services as part of their competitive offerings. The Commission also finds that the competitive nature of price listed services permits market forces to establish affordability for such services. The matter of the Commission's responsibility to insure service affordability, pursuant to Chapter 1093, Laws of 1999 (SB 622), relates to universal service and subsidy issues now being explored in other dockets.

860-0032-0040 Subsidies for Telecommunications Services

Current Subsection (1)(a). AARP proposes adding affordability to the list of criteria for Commission consideration.

Disposition: Staff's proposed rule, which contains no changes to subsection (1)(a), is adopted. We reject AARP's proposed changes for the reasons noted above.

860-0032-0060 Reporting Requirements

New Subsections (2)(b) and (c). Staff proposes to add language to import the reporting obligations of telecommunications utilities and cooperatives found in other rules into Division 032. Staff claims that, although the purpose of the rules is to seek information on competitive providers, information on incumbent utilities and cooperatives is necessary to make meaningful comparisons and analyses of the competitive market. OTA claims that the section is redundant, because cooperatives are already required to submit such information in Divisions 027 and 034. Staff comments that the rule is necessary to make it clear that a cooperative that fails to timely file a total company Form O report under OAR 860-034-0750, either permissively, or through oversight, must still supply the data required by subsection (3) under this rule.

Modified Subsections (3)(b), (c), and (d). Staff adopts GTE's proposed addition of the phrase "as used in Oregon" with respect to the business names of companies filing annual reports.

Disposition: Staff's proposed rule is adopted with GTE's suggested revisions. We disagree with OTA's contention that the new rule fails to clarify our reporting requirements.

¹⁶ We decline to provide, as GTE has requested, a special definition of "essential" for use in this subsection only. ORS 759.030 and the rules we adopt today provide adequate guidance.

860-0032-0220 Application for Service by Unserved Person

The purpose of the current rule is to fulfill the mandate of ORS 759.590, “Application for service by unserved person; rules,” subsection (2). The statute provides that “The commission shall adopt rules which prescribe the form of an application filed under subsection (1) of this section . . .” Staff proposes only minor technical changes to this rule. GTE suggests that the rule be deleted altogether and cites Section 253 of the Telecommunications Act of 1996, which did away with exclusive territories. This subsequent legislation makes the statute and the Commission’s rule obsolete. Staff is of the opinion that, regardless of the rule’s utility or lack thereof, ORS 759.590(2) requires that it remain in place and recommends that it be retained pending passage of remedial legislation.

Disposition: The Commission concurs in Staff’s legal analysis. The rule, as modified by Staff, is adopted.

SUMMARY

In summary, we conclude that the proposed changes, additions, and deletions, along with the modifications made as a result of the workshop, the written comments and the hearing, will update the more general rules of Division 032 to reflect the changes in the legal and regulatory environment since 1986.

ORDER

IT IS ORDERED that:

1. Proposed new and revised rules OAR 860-0032-0001, Definitions; OAR 860-0032-0002, Notice and Procedure; OAR 860-0032-0005, Application for New or Amended Certificate of Authority; OAR 860-0032-0007, Conditions for Certificates of Authority; OAR 860-0032-0010, Classification of Applicants; OAR 860-0032-0011, Advertisements by Competitive Providers; OAR 860-0032-0012, Service Standards of Competitive Providers; OAR 860-0032-0013, Uncertified Telecommunications Providers; OAR 860-0032-0015, Cancellation or Suspension of a Certificate; OAR 860-0032-0020, Notice of Intent to Abandon Service; OAR 860-0032-0025, Petition to Exempt Services; OAR 860-0032-0035, Petition to Price List Services; OAR 860-0032-0040, Subsidies for Telecommunications Service; OAR 860-0032-0050, Petition for a Declaratory Ruling that a Service is not Subject to Regulation; OAR 860-0032-0055, Regulation of Interexchange

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Telecommunications Utilities; OAR 860-0032-0060, Reporting Requirements; OAR 860-0032-0210, Price List Petitions; OAR 860-0032-0220, Application for Service by Unserved Person; and OAR 860-0032-0230, Pay Telephones are adopted as set forth in Appendix A attached to this order.

2. The new rules will be effective upon filing with the Oregon Secretary of State.

Made, entered, and effective _____.

BY THE COMMISSION:

Vikie Bailey-Goggins
Commission Secretary

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

DIVISION 032

TELECOMMUNICATIONS

860-032-0001

Definitions

For the purpose of this Division:

(1) “Competitive Provider” means a competitive telecommunications provider as defined in ORS 759.005(2)(a), who provides ~~only the~~ services authorized ~~under OARs 860-032-0005 and 860-032-0010~~ pursuant to ORS 759.020.

(2) “Cooperative” means a cooperative corporation or association, which provides local exchange telecommunications service within its own exchanges, which is organized under ORS Chapter 62, and which is certified under ORS 759.025(2).

(~~23~~) “Exempt Service” means a telecommunications service ~~which that~~ is completely deregulated. All revenues from, costs of, and assets dedicated to providing the service are ~~beyond not under~~ the Commission’s jurisdiction, until and unless the service is reregulated under OAR 860-032-0025(6).

(~~34~~) “Local Exchange Service” means local exchange telecommunications service as defined in ORS 759.005(~~1~~)(2)(c). Local exchange service includes “shared service.”

(~~45~~) “Operator Service” means service provided by a telecommunications provider in response to a request for special billing, dialing assistance, or information regarding the use of and charges for its telecommunications services. An operator service may be manual or automatic.

(~~56~~) “Pay Telephone” means a telephone instrument, generally placed in public areas, for transient use on a pay-per-call basis. “Pay Telephone” instruments may be coin operated, noncoin operated, prepay, postpay, central office controlled, instrument controlled, provided by local exchange carriers, or provided by other persons or entities.

(~~67~~) “Price-Listed Service” means a product or service whose price and terms are authorized under OAR 860-032-0035, OAR 860-032-0210, ORS 759.030, ORS 759.050, or ORS 759.195, and posted in a price list filed with the Commission. ~~The prices of such products or services are subject to change, without notice or hearing, at the Commission’s discretion.~~ The costs and revenues of a price-listed product or service shall be considered part of the telecommunications utility’s regulated activities.

(~~78~~) “Private Telecommunications Network” means a system, including the construction, maintenance, or operation of the system, for the provision of a service or any portion of a service, by a person for the exclusive use of that person and not for resale, directly or indirectly. “Private ~~t~~Telecommunications ~~n~~Network” includes services provided by the State of Oregon pursuant to ORS 190.240 and ORS 283.140.

(~~89~~) “Shared Service” means shared telecommunications service as defined in ORS 759.005(2)(f) and:

(a) The provision of telecommunications and information management services and equipment:

(A) To a user group comprised of one person or association served by a single telecommunications system;

(B) Located in a single building or in several buildings on contiguous property;

(C) By a commercial shared service provider or by a users' association; and

(D) Through privately owned customer premises equipment and associated data processing and information management services.

(b) Includes connection to local exchange service.

(910) "Telecommunications Providers" or "provider" includes competitive providers, cooperatives, and telecommunications utilities.

(1011) "Telecommunications Service" or "service" means two-way switched access and transport of voice communications, and all services provided in connection with such services, but excludes:

(a) Services provided by radio common carrier;

(b) One-way transmission of television signals;

(c) Surveying;

(d) Private telecommunications networks; and

(e) Customer communications which take place on the customer's side of the network interface.

(1112) "Telecommunications Utility" means a person who is not a competitive provider and is designated as a telecommunications utility under OAR 860-032-0010.

(1213) "Toll Service" means a telecommunications service between local exchanges carried on the public switched network for which charges are made on a per-unit basis.

(1314) "Unserved Person" means a person:

(a) Who lacks local exchange service;

(b) Who is applying for residential service or business service with five or fewer lines; and

(c) Who, for the initiation of such service, would be required to pay line extension charges.

Stat. Auth.: ORS Ch. 183, 756, & 759 ~~& 767~~

Stats. Implemented: ORS 756.040 & 759.005

Hist.: PUC 27-1985 (Temp), f. & ef. 12-19-85 (Order No. 85-1203); PUC 19-1986 (Temp), f. & ef. 12-15-86 (Order No. 86-1253); PUC 16-1986, f. & ef. 11-17-86 (Order No. 86-1159); PUC 10-1989 (Temp), f. & cert. ef. 7-10-89 (Order No. 89-847); PUC 1-1990, f. & cert. ef. 2-6-90 (Order No. 90-96); PUC 5-1993, f. & ef. 2-19-93 (Order No. 93-184); PUC 1-1994, f. & ef. 1-5-94 (Order No. 94-040); PUC 10-1998, f. & ef. 4-28-98 (Order No. 98-170)

860-032-0002

Notice and Procedure

(1) All notices initiating a proceeding under this Division, including, but not limited to, applications, petitions, complaints, and other pleadings, shall be served on all telecommunications providers and all persons on the Commission's telecommunications mailing list. Any person wishing to be included on the list shall submit his/her name and address to the Public Utility Commission of Oregon, Administrative Hearings Division, 550 Capitol Street NE, Suite 215, Salem, Oregon 97301-2551.

~~(2) The Commission shall serve notice of each application, petition, complaint, and other pleading initiating a proceeding under this Division on the persons listed on the telecommunications mailing list.~~

~~(32)~~ Except as otherwise provided, every proceeding under this Division shall follow the procedures in ORS 756.500 et seq. and the Commission's rules of procedure.

~~(43)~~ Any person submitting information under the Commission's rules may request that the information be held in confidence pursuant to the public records law, ORS 192.500.

Stat. Auth.: ORS Ch. 183, 756, & 759 & ~~767~~

Stats. Implemented: ORS 756.040, 759.020 & 759.025

Hist.: PUC 27-1985 (Temp), f. & ef. 12-19-85 (Order No. 85-1203); PUC 16-1986, f. & ef. 11-17-86 (Order No. 86-1159); PUC 1-1990, f. & cert. ef. 2-6-90 (Order No. 90-96); PUC 10-1998, f. & ef. 4-28-98 (Order No. 98-170); PUC 8-1999, f. & ef. 10-18-99 (Order No. 99-632)

860-032-0005

Application for New or Amended Certificate of Authority

(1) No person shall provide intrastate telecommunications services on a for hire basis within the State of Oregon except as authorized in a certificate of authority from the Commission.

(2) Any person intending to provide intrastate telecommunications services in Oregon shall file an application, on forms provided by the Commission, for a new or amended certificate of authority to provide telecommunications services. ~~The application may include a petition to exempt services from regulation under OAR 860-032-0025, or to price list services under OAR 860-032-0035.~~

(3) For applicants who request classification as a telecommunications utility, all services proposed to be offered by the applicant shall be deemed essential services. However, applicant may accompany the application with a petition to exempt some services pursuant to OAR 860-032-0025 or to price list some or all services pursuant to OAR 860-032-0035.

(4) Certificates of authority may not be transferred or assigned without the prior consent of the Commission.

~~(35)~~ An application shall contain:

(a) The name, address, and telephone number of the applicant;

(b) A description of the service the applicant seeks to provide, including designation of such service as local exchange, shared, or interexchange service;

~~(bc)~~ A description of ~~the service the applicant seeks to provide and~~ the territory where the service is to be offered. An application to provide local exchange services shall include a ~~map describing~~ **description of** the local exchange service boundaries **or a list of the local exchanges to be served;**

~~(ed)~~ The names ~~and addresses~~ of affiliated **d interests** of the applicant, as defined in ORS 759.010, which are certified to provide or are actually providing telecommunications services in Oregon; and

~~(de)~~ A request for classification as a **public telecommunications** utility or competitive provider. ~~The request shall set forth the information required under OAR 860-032-0010 to classify the provider. Each applicant shall designate whether it is proposing to provide local exchange, shared, or toll service.~~

(46) If an application, in any material respect, is incomplete, inaccurate, false, or misleading, the Commission shall reject the application.

~~(57)~~ ~~Within 30 days of filing, t~~ The Commission shall serve notice of the application **as provided in OAR 860-032-0002(1).** ~~on all providers and all persons on the Commission's telecommunications mailing list.~~

~~(68)~~(a) Within 20 days of the date of service under section ~~(57)~~ of this rule, any ~~affected provider or other~~ interested person may file a protest to an application. The protest shall set forth the grounds for the protest. **Except as provided in subsection (8)(b) of this rule,** ~~Failure to protest within the time limit shall be deemed consent to the application.~~ ~~Except as provided in subsection (7)(b) of this rule, t~~ The Commission may require a person filing a protest to show that it is affected by the application or that its appearance and participation will not unreasonably broaden the issues or burden the record;

(b) If the application is to provide local exchange service within the service territory of a telecommunications utility or cooperative, the telecommunications utility or cooperative may protest. Failure of the telecommunications utility or cooperative to protest an application to provide local exchange service, other than shared service, shall not be considered consent to the application. The telecommunications utility or cooperative shall be made a party to the application process upon written request to the Commission and mailing a copy of the request to the applicant;

~~(bc)~~ The applicant shall serve protestants **and parties** with copies of amendments and additional information submitted ~~in the course of~~ **during** the application process. If an applicant intends to broaden the authority requested during the application process, it shall follow the procedures set forth in sections (2) through ~~(68)~~ of this rule. However, it may narrow its request by serving its amendment on each protestant **and party**.

~~(7) Unless a hearing is held on the Commission's own motion or under subsection (b) of this section, the Commission may consider the protests and grant or deny the application without hearing. If an application is denied in whole or in~~

~~part, without hearing, the Commission shall set forth in writing the reasons for the denial. Within 30 days of the date of service of the denial, the applicant may, in writing, request a hearing.~~

~~(b) If the application is to provide local exchange service, other than shared services, within the service territory of a public utility, and the utility protests the application, the Commission shall hold a hearing on the application.~~

~~(8) The Commission may find an application to provide local exchange service other than shared services is in the public interest, and may grant the application, if:~~

~~(a) The public utility in whose service territory the applicant seeks to provide local exchange service consents or does not protest; or~~

~~(b) After hearing, the Commission finds the public utility in whose service territory the applicant seeks to provide local exchange service is unable to provide local exchange service. Failure by the public utility to provide reasonable and adequate local exchange service after having been ordered to do so by the Commission shall constitute inability to provide service.~~

~~(9) A certificate to provide telecommunications services shall be subject to the following conditions:~~

~~(a) The certificate holder shall provide only the telecommunications services authorized in the certificate;~~

~~(b) The certificate holder shall not abandon service except as authorized under the Commission's rules;~~

~~(c) For public utilities, the records and books of the certificate holder are open to inspection by the Commission, and shall be maintained according to the Commission's rules;~~

~~(d) For competitive providers, the books and records of the certificate holder shall be open to inspection by the Commission to the extent necessary to verify information required of the certificate holder by the Commission's rules. The books and records shall be maintained according to generally accepted accounting principles and the applicable rules of the Commission;~~

~~(e) The certificate holder agrees to pay all access charges and subsidies imposed pursuant to the Commission's rules;~~

~~(f) The certificate holder involved in the provision of an operator service shall:~~

~~(A) Notify all callers at the beginning of each call of the telecommunications provider's name; however, a local exchange telephone company providing operator services for another local exchange telephone company may "brand" the call by identifying the other local exchange company.~~

~~(B) Disclose rate and service information to the caller when requested;~~

~~(C) Maintain a current list of emergency numbers for each service territory it serves;~~

~~(D) Transfer an emergency call to the appropriate emergency number when requested, free of charge;~~

~~(E) Transfer a call to, or instruct the caller how to reach, the originating local exchange company's operator service upon request of the caller, free of charge;~~

~~(F) Not transfer a call to another operator service provider without the caller's notification and consent;~~

~~(G) Not bill or collect for calls not completed to the caller's destination; and~~

~~(H) Not screen calls and prevent or "block" the completion of calls which would allow the caller to reach an operator service company different from the certificate holder. In addition, the certificate holder shall, through contract provisions with its call aggregator clients, prohibit the blocking of a caller's access to his or her operator service company of choice. A certificate holder may apply for a waiver from the Commission if necessary to prevent fraudulent use of its services.~~

~~(g) Telecommunications providers who enter into operator service contract or arrangements with call aggregators shall include in those contracts or arrangements provisions for public notification as follows:~~

~~(A) A sticker or name plate identifying the name of the certificate holder shall be attached to each telephone available to the public;~~

~~(B) A brochure, pamphlet, or other notice shall be available in the immediate vicinity of the telephone giving the name of the operator service provider, stating that rate quotes are available upon request, listing a toll-free telephone number for customer inquiry, and giving instructions on how the caller may access other operator service providers.~~

~~(h) Competitive providers may contract with local telephone utilities for customer billing and collection under the following conditions:~~

~~(A) The telephone utility, in billing for the competitive provider, shall include on the bill the name of a company with the information and authority to provide information and resolve disputes about billing entries, a toll-free number to reach that company, and details of the services and charges billed;~~

~~(B) The telephone utility shall not deny telephone service to customers for failure to pay charges for competitive provider services or unregulated utility services.~~

~~(i) The certificate holder agrees to comply with the Commission's rules applicable to the certificate holder; and~~

~~(j) A public utility shall meet the service standards for regulated services set forth in the Commission's rules.~~

~~(10) Cooperative corporations organized under ORS Chapter 62 are not subject to ORS 759.015, et seq. or Division 032 of the Commission's rules except OARs 860-034-0750 and 860-032-0100. Nothing in Division 032 shall have any effect on the integrity of a cooperative's territorial allocation granted under ORS 758.400 et seq.~~

(9) The Commission shall review applications for interexchange service or shared service pursuant to ORS 759.020. Applications for local exchange service, other than shared service, shall be reviewed pursuant to ORS 759.020 and ORS 759.050.

(10) For all applications:

(a) The Commission may hold a hearing regarding an application upon request of any person or on its own motion;

(b) The Commission may consider protests to an application and may grant or deny an application without hearing. However, if the application is to provide local exchange service, other than shared service, within the service territory of a telecommunications utility, and the telecommunications utility protests, the Commission shall hold a hearing regarding the application; and

(c) If an application is denied in whole or in part, without hearing, the Commission shall set forth in writing the reasons for the denial. Within 30 days of the date of service of the denial, the applicant may, in writing, request a hearing.

(11) For applications for local exchange service, other than shared service, the following apply in addition to provisions of section (9) of this rule:

(a) The Commission may apply the public interest criteria from ORS 759.050(2), or the Commission may determine pursuant to ORS 759.020(3) that the affected telecommunications utility or cooperative is unable to provide service;

(b) Failure by the telecommunications utility or cooperative to provide reasonable and adequate local exchange service shall constitute inability to provide service;

(c) If the Commission processes the application without a hearing, the Commission staff shall issue to the applicant and to affected parties a proposed order which grants or denies the application; and

(d) The applicant or affected parties may file exceptions to the proposed order. Exceptions shall be filed with the Administrative Hearings Division, Commission staff, and all parties to the application proceeding. Commission staff and all parties may reply to exceptions.

Stat. Auth.: ORS Ch. 183, 756, ~~757~~ & 759

Stats. Implemented: ORS 756.040, 759.020, 759.025, 759.030, 759.050, 759.225 & 759.690

Hist.: PUC 27-1985 (Temp), f. & ef. 12-19-85 (Order No. 85-1203); PUC 16-1986, f. & ef. 11-17-86 (Order No. 86-1159); PUC 10-1989 (Temp), f. & cert. ef. 7-10-89 (Order No. 89-847); PUC 1-1990, f. & cert. ef. 2-6-90 (Order No. 90-96); PUC 23-1990, f. & cert. ef. 12-31-90 (Order No. 90-1918); PUC 9-1991, f. & ef. 7-16-91 (Order No. 91-854); PUC 13-1997, f. & cert. ef. 11-12-97 (Order No. 97-434); PUC 2-1998, f. & cert. ef. 2-24-98 (Order No. 98-060); PUC 10-1998, f. & ef. 4-28-98 (Order No. 98-170); PUC 3-1999, f. & ef. 8-10-99 (Order No. 99-468)

860-032-0007

Conditions of Certificates of Authority

A certificate to provide telecommunications service shall be subject to the following conditions:

(1) The certificate holder shall provide only the telecommunications service authorized in the certificate.

(2) A telecommunications utility shall not abandon service except as authorized under the Commission's rules.

(3) For telecommunications utilities, the records and books of the certificate holder are open to inspection by the Commission, and shall be maintained according to the Commission's rules.

(4) For competitive providers and cooperatives, the books and records of the certificate holder shall be open to inspection by the Commission to the extent necessary to verify information required of the certificate holder. The books and records shall be maintained according to the applicable rules of the Commission.

(5) The certificate holder shall pay all access charges and subsidies imposed pursuant to the Commission's rules, orders, tariffs, or price lists.

(6) The certificate holder involved in the provision of an operator service shall:

(a) Notify all callers at the beginning of each call of the telecommunications provider's name; however, a telecommunications provider furnishing operator service for another telecommunications provider may brand the call by identifying the other provider;

(b) Disclose rate and service information to the caller when requested;

(c) Maintain a current list of emergency numbers for each service territory it serves;

(d) Transfer an emergency call to the appropriate emergency number when requested, free of charge;

(e) Transfer a call to, or instruct the caller how to reach, the originating telecommunications utility's operator service upon request of the caller, free of charge;

(f) Not transfer a call to another operator service provider without the caller's notification and consent;

(g) Not bill or collect for calls not completed to the caller's destination telephone number; and

(h) Not screen calls and prevent or block the completion of calls which would allow the caller to reach an operator service company different from the certificate holder. In addition, the certificate holder shall, through contract provisions with its call aggregator clients, prohibit the blocking of a caller's access to his or her operator service company of choice. A certificate holder may apply for a waiver from the Commission if necessary to prevent fraudulent use of its services.

(7) Telecommunications providers who enter into operator service contracts or arrangements with call aggregators shall include in those contracts or arrangements provisions for public notification as follows:

(a) A sticker or name plate identifying the name of the certificate holder shall be attached to each telephone available to the public; and

(b) A brochure, pamphlet, or other notice shall be available in the immediate vicinity of the telephone giving the name of the operator service provider, stating that rate quotes are available upon request, listing a toll-free telephone number for customer inquiry, and giving instructions on how the caller may access other operator service providers.

(8) Competitive providers may contract with telecommunications utilities, other competitive providers, or other persons for customer billing and collection under the following conditions:

(a) The telecommunications utility, other competitive provider, or other person, in billing for the competitive provider, shall include on the bill the name of a company with the information and authority to provide information and resolve disputes about billing entries, a toll-free number to reach that company, and details of the services and charges billed;

(b) The telecommunications utility shall not deny telecommunications service to customers for failure to pay charges for competitive provider services or unregulated utility services.

(9) The certificate holder shall comply with Commission rules and orders applicable to the certificate holder.

(10) The certificate holder shall not take any action that impairs the ability of other certified telecommunications providers to meet service standards specified by the Commission;

(11) The certificate holder shall respond in a timely manner to Commission inquiries.

(12) The certificate holder shall submit required reports in a timely manner.

(13) The certificate holder shall notify the Commission of changes to the certificate holder's name, address, or telephone numbers within ten days of such change.

(14) Telecommunications providers shall meet service standards set forth in applicable Commission's rules, including OAR 860-032-0012.

(15) The certificate holder shall timely pay all Commission taxes, fees, or assessments adopted pursuant to Oregon law or Commission rules, orders, tariffs or price lists.

Stat. Auth.: ORS Ch. 183, 756 & 759

Stats. Implemented: ORS 756.040, 759.020, 759.030, 759.050, 759.225 & 759.690

Hist.: New

860-032-0010

Classification of Applicants

(1) Pursuant to ORS 759.020, There shall be two classifications of telecommunications providers:

(a) Telecommunications utility; and

(b) Competitive ~~services~~ provider.

~~(2) If the telecommunications provider qualifies under section (4) of this rule, the Commission shall classify the applicant as a competitive provider.~~

~~(3) The Commission shall classify all other telecommunications providers as telecommunications utilities.~~

~~(4) To qualify as a competitive provider, the certificate holder shall demonstrate that the only services it offers are subject to competition or that its customers or those proposed to be customers have available alternatives. Pursuant to OAR 860-032-0045, sShared services are competitive. In determining the nature of the services the certificate holder provides, the Commission shall consider:~~

~~(a) The extent to which services are available from alternative telecommunications providers in the relevant market;~~

~~(b) The extent to which the alternative telecommunications providers' services are functionally equivalent or substitutable at comparable rates, terms, and conditions;~~

~~(c) Existing economic or regulatory barriers to entry; and~~

~~(d) Any other factors deemed relevant by the Commission.~~

(2) The Commission shall classify an applicant for a certificate of authority pursuant to ORS 759.020.

(53) Any telecommunications provider may file a petition with the Commission under OAR 860-032-0005 ~~and this rule~~ to change its classification. On the Commission's own motion, and after notice and opportunity for hearing, the Commission may change a telecommunications provider's classification upon finding the provider no longer qualifies for the classification previously assigned or qualifies for a different classification.

(4) Local exchange telecommunications service provided by a telecommunications utility or a cooperative within the boundaries of local exchanges belonging to another telecommunications utility or cooperative, which exchanges are defined pursuant to ORS 759.005(2)(c), shall be considered the operations of a competitive provider, and may only be provided pursuant to a certificate of authority granted by the Commission under ORS 759.020. Such service shall be considered operations of a competitive provider without regard to the manner the provider treats those operations.

(5) Telecommunications services provided by a telecommunications utility or a cooperative pursuant to a certificate of authority granted under ORS 759.020, wherein the provider was classified as a competitive provider for purposes of providing those services, shall be considered the operations of a competitive provider without regard to the manner the provider treats those operations.

Stat. Auth.: ORS Ch. 183, 756 & 759

Stats. Implemented: ORS 756.040, 759.005, 759.020, & 759.030

Hist.: PUC 27-1985 (Temp), f. & ef. 12-19-85 (Order No. 85-1203); PUC 16-1986 f. & ef. 11-17-86 (Order No. 86-1159); PUC 10-1998, f. & ef. 4-28-98 (Order No. 98-170)

860-032-0011

Advertisements by Competitive Providers

~~By accepting a certificate to operate as a carrier, the carrier agrees shall ensure that to the following condition. A~~Each competitive provider, the advertisements or other offers of service ~~shall do~~ not refer to the Commission's certification of the competitive provider, unless the advertisement or offer conspicuously includes the following statement:

The Public Utility Commission of Oregon does not regulate the rates ~~or service~~ of this carrier. Certification by the Commission means ~~only~~ that this carrier is listed with the Commission to do business in Oregon.

Stat. Auth.: ORS Ch. 183, 756 & 759

Stats. Implemented: ORS 756.040, ~~&~~ 759.020, & 759.050

Hist.: PUC 5-1991, f. & cert. ef. 4-3-91 (Order No. 91-395); PUC 10-1998, f. & ef. 4-28-98 (Order No. 98-170)

860-032-0012

Service Standards of Competitive Providers

(1) As used in this ~~section~~rule, "Busy Hour" means the hour of the day when the number of calls carried on the competitive provider's network is the highest. "Level of service" means the probability, expressed as a percentage, that a call will not be blocked during the busy hour. For the purpose of calculating the probability, a call to a number which is busy is defined as an unblocked call.

(2) Standard Level of Service. The standard level of service for competitive ~~telecommunications~~ providers is ~~ninety-nine~~ (99) percent.

(3) Competitive providers shall, at a minimum, meet the standard level of service.

~~(3) Minimum Service Level. Upon certification as a competitive provider, and on or before January 1 of each year thereafter, a each provider shall file a declaration with the Commission stating the minimum level of service it will provide.~~

(4) Notification to Customers. If the minimum service level ~~is for any~~ **competitive provider falls** below 99 percent **four or more times in any calendar month, the** providers shall notify prospective and present customers ~~of the minimum service level that the customers may expect to receive, as stated in the declared minimum service level in effect and on file with the Commission, and~~ that the service level being provided is below the standard of 99 percent.

(5) Revocation of Certificate. The Commission may revoke the certificate of a **competitive** provider which repeatedly fails to meet ~~the declared minimum service~~

level in effect and on file with the Commission. the requirements of sections (2), (3), or (4) of this rule.

Stat. Auth.: ORS Ch. 183, ~~& 756~~ **& 759**

Stats. Implemented: ORS 756.040, ~~& 759.020~~, **759.030 & 759.050**

Hist.: PUC 5-1991, f. & cert. ef. 4-3-91 (Order No. 91-395)

860-032-0013

Uncertified Telecommunications Providers

(1) No telecommunications provider shall provide ~~local exchange access~~ **telecommunications service** to another person for purposes of resale, unless the purchaser has a valid certificate of authority from the Commission to operate as a telecommunications provider.

(2) No telecommunications provider shall purchase telecommunications service, for purposes of resale, from another person, unless the seller has a valid certificate of authority from the Commission to operate as a telecommunications provider.

Stat. Auth.: ORS Ch. 183, 756 & 759

Stats. Implemented: ORS 756.040, ~~& 759.020~~ **& 759.050**

Hist.: PUC 5-1991, f. & cert. ef. 4-3-91 (Order No. 91-395); PUC 10-1998, f. & ef. 4-28-98 (Order No. 98-170)

860-032-0015

Cancellation or Suspension of a Certificate

(1) The Commission may cancel or suspend a certificate **of authority** to provide telecommunications service upon a finding that:

(a) The certificate holder intentionally filed an application containing incomplete, inaccurate, false, or misleading information or otherwise misrepresented the services or territory the applicant intends to serve, the applicant's ownership, affiliates of the applicant, or the applicant's assets or other information presented to the Commission; ~~or~~

(b) The certificate holder has failed to comply with the terms and conditions of the certificate;

(c) The certificate holder intentionally provided to the Commission incomplete, inaccurate, false, or misleading information; or

(d) The certificate holder failed to pay the annual PUC fee, as required by OAR 860-032-0095.

(2) If the Commission finds a telecommunications provider has violated section (1) of this rule, the Commission may, **by order**, cancel or suspend the authority in its entirety or the authority to provide a particular service. Upon suspension or cancellation, the telecommunications provider shall be prohibited from providing the services specified in the order.

Stat. Auth.: ORS Ch. 183, 756 & 759

Stats. Implemented: ORS 756.040, **756.320, & 759.020 & 759.050**

Hist.: PUC 27-1985 (Temp), f. & ef. 12-19-85 (Order No. 85-1203); PUC 16-1986, f. & ef. 11-17-86 (Order No. 86-1159); PUC 10-1998, f. & ef. 4-28-98 (Order No. 98-170)

860-032-0020

Notice of Intent to Abandon Service

~~(1) Upon 30 days' notice to the Commission:~~

~~(a) A competitive provider or shared service provider may abandon a service authorized in its certificate; or~~

~~(b) A telecommunications utility may abandon an exempted service.~~

(21) A telecommunications utility ~~which intends~~intending to discontinue an individual regulated service, including a service for which there are no current customers, shall file a petition with the Commission. The petition shall be filed at least 60 days before the date the telecommunications utility intends to abandon the service. At least 30 days before the date a Within five days of filing the petition with the Commission, the telecommunications utility intends to abandon service, it shall notify affected customers of the filing and its intent to abandon the service. The telecommunications utility shall demonstrate that the abandonment will not deprive the public of necessary telecommunications services. The telecommunications utility shall agree to reinstitute service at the Commission's request to prevent the public from being deprived of necessary services.

(2) If the Commission does not deny the petition or set it for hearing within 60 days of receiving the petition, it shall be deemed approved.

(3) A telecommunications utility shall not file a tariff with an individual service deleted from the tariff unless the tariff filing is preceded or accompanied by a petition to abandon the service pursuant to subsection (1) of this rule.

(4) If a telecommunications utility intends to abandon an individual service for which there are no current customers, the petition required in subsections (1) and (3) of this rule may consist of an explanatory cover letter or advice letter filed with the tariff which reflects the abandonment of the service.

Stat. Auth.: ORS Ch. 183, 756 & 759

Stats. Implemented: ORS 756.040, **759.020, & 759.035 & 759.050**

Hist.: PUC 27-1985 (Temp), f. & ef. 12-19-85 (Order No. 85-1203); PUC 16-1986, f. & ef. 11-17-86 (Order No. 86-1159); PUC 10-1998, f. & ef. 4-28-98 (Order No. 98-170)

860-032-0025

Petition to Exempt Services

(1) Upon petition by a telecommunications utility and upon notice and hearing, except as provided in section (7) of this rule, ~~upon notice and hearing~~, the Commission shall exempt a service from regulation in whole or in part ~~from regulation a service~~, if the Commission finds ~~the rate the telecommunications utility proposes for the service covers its full long-range incremental cost:~~

~~(a) Price and service competition exists; or~~

~~(b) The service is subject to competition.~~

(2) Upon petition by any person, including a telecommunications utility, and upon notice and hearing, except as provided in section (7) of this rule, ~~upon notice and hearing~~, the Commission may exempt a service from regulation in whole or in part ~~from regulation a service~~, if the Commission finds:

(a) Price or service competition exists; ~~or~~

(b) The services ~~are~~ is subject to competition; or

(c) The public interest no longer requires full regulation of the service.

(3) Prior to making a finding under sections (1) or (2) of this rule, the Commission shall consider:

(a) The extent to which services are available from alternative telecommunications providers in the relevant market;

(b) The extent to which the services of alternative telecommunications providers are functionally equivalent or substitutable at comparable rates, terms, and conditions;

(c) Existing economic or regulatory barriers to entry; and

(d) Any other factors deemed relevant by the Commission.

(4) Petitions filed under sections (1) and (2) of this rule shall contain:

(a) The petitioner's name and address;

(b) A copy of the petitioner's certificate of authority, if any;

(c) The service or portion of a service proposed to be exempted from regulation;

(d) Documentation which demonstrates the petition meets the requirements in sections (1), (2), and (3) of this rule;

(e) The telecommunications utility's revenues from and costs of providing the service, the long-range incremental cost of the service, the cost allocation to regulated and unregulated activities for future rate-making treatment, and supporting documentation. The information submitted under this paragraph may be submitted in confidence;

(f) A statement from each joint telecommunications provider of the service that it agrees to the exemption; or

(g) A statement from the petitioner indicating how the exemption will affect the rates and services of all affected joint telecommunications providers of the service.

(5) The Commission may attach reasonable conditions to an exemption granted under this rule and may amend or revoke any such order under ORS 756.568.

(6) Except as provided in section (7) of this rule, after notice and hearing, and upon a finding that the circumstances under which the service was exempted no longer

exists or the public interest requires reregulation of the service, the Commission may reregulate a service which has been exempted under this rule.

(7) If no objections are filed to proposals under sections (1), (2), or (6) of this rule, **or with agreement of the parties**, the Commission may waive the requirement for hearing.

Stat. Auth.: ORS Ch. 183, 756 & 759

Stats. Implemented: ORS 756.040 & 759.030

Hist.: PUC 27-1985 (Temp), f. & ef. 12-19-85 (Order No. 85-1203); PUC 16-1986, f. & ef. 11-17-86 (Order No. 86-1159); PUC 10-1998, f. & ef. 4-28-98 (Order No. 98-170)

860-032-0035

Petition to Price List Services

(1) **Pursuant to ORS 759.030(6), a**~~Any~~ telecommunications utility may petition the Commission to price list a service. The petition shall contain the following information:

(a) The name of the ~~petitioner telecommunications utility~~;

~~(b) The service territory of the telecommunications utility;~~

~~(eb) A description of T~~**the** proposed price-listed service, including the initial price list with the proposed terms and prices of the service;

(c) Documentation and information to support findings the Commission must make and the criteria the Commission must consider as set forth in sections (4), (5), and (6) of this rule; and

~~(d) The telecommunications utility's jurisdiction for price listing the service;~~
and

~~(ed)~~ A statement from:

(A) Each joint telecommunications provider of the service that it agrees to the price list; or

(B) The petitioner indicating how the price list will affect the rates and services of all joint telecommunications providers of the service.

(2) A telecommunications utility seeking to price list a service ~~other than local exchange service~~ shall identify ~~the other~~ telecommunications providers who provide the service **in the same geographic area as does the petitioner**.

(3) After notice and investigation, the Commission may, by order, grant a petition to price list a service.

(4) The petition to price list a ~~local exchange telecommunications~~ service may be granted, subject to reasonable conditions, if the Commission finds ~~that~~:

(a) The service is subject to competition; or

(b) The service is not essential.

(5) Before finding that a service is subject to competition, the Commission shall consider:

(a) The extent to which services are available from alternative telecommunications providers in the relevant market;

(b) The extent to which the services of alternative ~~telecommunications~~ providers are functionally equivalent or substitutable at comparable rates, terms, and conditions;

(c) Existing economic or regulatory barriers to entry; and

(d) Any other factors deemed relevant by the Commission.

(6) Before finding that a telecommunications service is “not essential,” for purposes of ORS 759.030(6) and section (4)(b) of this rule, the Commission will apply the following criteria:

(a) There is a rebuttable presumption that a service listed in OAR 860-032-0200 is also essential for purposes of ORS 759.030(6) and this rule;

(b) A service required for emergency 9-1-1 calls is essential;

(c) A service is essential if customers require it to efficiently establish, sustain, or discontinue a telecommunications call by means of the public switched network;

(d) A service may be deemed “not essential” only if it is not essential for all customer classes. If a service is found to be essential for one customer class, it shall be considered an essential service, and it shall not be deemed “not essential.” Customers include end-users, telecommunications providers, enhanced service providers, and radio common carriers;

(e) If the Commission determines that a service is “not essential,” it will be deemed not essential for all areas in Oregon served by the petitioner;

(f) Presence of alternatives to the service will be considered. The presence or absence of alternatives, in and of itself, is not sufficient to determine whether a service is essential;

(g) For telecommunications utilities certified prior to January 1, 1999, there is a rebuttable presumption that a telecommunications service which is first offered after January 1, 1999, is not essential;

(h) For any person certified as a telecommunications utility after January 1, 1999, all services proposed to be offered initially shall be deemed essential. However, the telecommunications utility may, with the application for a certificate of authority or thereafter, petition under this rule to price list some or all of its telecommunications services.

(i) A service is not new if it merely renames, repackages, or is a variation of an existing service; and

(j) There is a rebuttable presumption that a package of telecommunications services is not essential, provided each service within the package is readily available to customers on a separate basis.

(7) The rate set for a price listed service shall not be lower than the long-run incremental cost of providing the service.

(8) The rate set for a package of services must be equal to or greater than the tariffed rate(s) for the essential service(s) plus the long-run incremental cost(s) of the “not essential” service(s) in the package.

(69) Unless the Commission finds the petition is contrary to the public interest, a petition to price list a service ~~other than a local exchange service~~ shall be granted, subject to reasonable conditions.

(710) After notice and investigation, the Commission may amend or revoke an order price listing a service. The Commission may take such an action upon a finding that the circumstances under which the service was price listed no longer exist, or that the public interest requires that the telecommunications utility's authority to price list a service be changed.

(811) If the Commission authorizes ~~the a~~ telecommunications utility to price list a service, the telecommunications utility shall file ~~a tariff with~~ a price list consistent with the terms of the order. The telecommunications utility may revise the price list by filing revisions with the Commission. ~~The filing shall reference the tariff and include a statement from each joint telecommunications provider of the service that each telecommunications provider agrees to the price list or a statement from the petitioner indicating how the price list will affect rates and services.~~ Unless otherwise required by the Commission, a price list, ~~agreed to by all joint telecommunications providers,~~ shall be effective on the date specified by the telecommunications utility. ~~The effective date shall be not less than 24 hours one full business day after the price list or change in price list is filed with the Commission. The price list may be effective immediately on filing with the Commission.~~ The procedures in ORS 759.180 to 759.190 do not apply to filing or revising a price list.

(912) ~~If the Commission determines that the price or terms of a service are illegal, excessive, or are priced below cost, the Commission may reject a price list or may require the telecommunications utility to file a revised price list for a service. The Commission may suspend the effective date of the price list until the telecommunications utility establishes that the price or terms proposed are not contrary to the public interest. The Commission may at any time order a telecommunications utility to appear before the Commission and establish that any or all of its price listed service rates or terms and conditions are just, reasonable, nondiscriminatory, and in the public interest. After hearing, the Commission may order the telecommunications utility to change the terms and condition or rates of its price listed services. The telecommunications utility may not thereafter change any terms and conditions or rates of price listed services contrary to the terms of the Commission order without approval by the Commission.~~

Stat. Auth.: ORS Ch. 183, 756 & 759

Stats. Implemented: ORS 756.040, 759.030 & 759.195

Hist.: PUC 77-1985 (Temp), f. & ef. 12-19-85 (Order No. 85-1203); PUC 16-1986, f. & ef. 11-17-86 (Order No. 86-1159); PUC 10-1998, f. & ef. 4-28-98 (Order No. 98-170)

860-032-0040

Subsidies for Telecommunications Service

(1) Before determining the ~~necessity~~ need for or the sources of a subsidy to telecommunications service providers, the Commission shall investigate ~~initiate an investigation~~ and hold hearings. The ~~investigation~~ Commission shall consider:

- (a) The need to secure and maintain high-quality universal telecommunications service at just and reasonable rates for all customer classes;
- (b) The need to encourage innovation through a balanced program of regulation and competition; and
- (c) The effect of changing technology on pricing methods.

(2) Any person may petition the Commission to require telecommunications providers to subsidize services provided by a telecommunications utility.

(3) The Commission shall, by order, identify the revenue source of any fund needed to provide the subsidy and prescribe the manner of collection and distribution of the fund.

Stat. Auth.: ORS Ch. 183, 756 & 759

Stats. Implemented: ORS 756.040, 759.015 & 759.030

Hist.: PUC 27-1985 (Temp), f. & ef. 12-19-85 (Order No. 85-1203); PUC 16-1986, f. & ef. 11-17-86 (Order No. 86-1159); PUC 13-1998, f. & ef. 5-7-98 (Order No. 98-190)

860-032-0050

Petition for a Declaratory Ruling that a Service is not Subject to Regulation

Any person may file a petition ~~with the Commission~~ requesting a ruling whether a service is subject to regulation by the Commission. The petition shall contain the following information:

- (1) The petitioner's name, address, and telephone number; ~~and~~
- (2) A detailed description of the service on which the ruling is requested; ~~;~~
- (3) The legal basis under which the petitioner contends that the service is, or is not, subject to regulation, including citations to relevant state and federal statutes, court decisions, or orders of the Federal Communications Commission or the Commission; ~~;~~
- (4) The names and addresses of any joint telecommunications providers of the service; ~~;~~ and
- (5) The rate schedules or price lists affected.

Stat. Auth.: ORS Ch. 183 & 756

Stat. Implemented: ORS 756.040 & 756.450

Hist.: PUC 16-1986, f. & ef. 11-17-86 (Order No. 86-1159); PUC 10-1998, f. & ef. 4-28-98 (Order No. 98-170)

860-032-0055

Regulation of Interexchange Telecommunications Utilities

~~(1) This rule applies to telecommunications utilities who only provide service between exchanges.~~

~~(2) Except upon order of the Commission, a telecommunications utility under section (1) of this rule need not comply with rules relating to telecommunications utilities or other requirements of ORS Chapters 757, 758, and 759, except:~~

~~(a) The restrictions on abandonment of service under OAR 860-032-0020;~~

~~(b) The service standards applicable to interexchange carriers under OARs 860-023-0055(10) and 860-034-0390;~~

~~(c) The prohibition against, directly or indirectly, by any device, charging, demanding, collecting, or receiving from any person a greater or less compensation for any service rendered or to be rendered by it than it charges, demands, collects, or receives from any other person for a like and contemporaneous service under substantially similar circumstances;~~

~~(d) The prohibition against making or giving undue or unreasonable preference or advantage to any particular person or locality, or subjecting any particular person or locality to any undue or unreasonable prejudice or disadvantage in any respect; and~~

~~(e) A telecommunications utility providing service under this rule:~~

~~(A) May charge no more than maximum rates filed with and approved by the Commission on the effective date of this rule. Subject to a maximum rate, rates for message toll service are eligible to be price listed under OAR 860-032-0035; and~~

~~(B) May petition the Commission to change the maximum allowable toll rate schedules. If ordered by the Commission, the petition to change the maximum rate shall be subject to hearing.~~

~~(3) A telecommunications utility providing service under this rule also may provide services which the Commission finds are competitive or subject to competition under OAR 860-032-0010 or OAR 860-032-0025.~~

Stat. Auth.: ORS Ch. 183 & 756

Stats. Implemented: ORS 756.040, 759.195 & 759.275

Hist.: PUC 16-1986, f. & ef. 11-17-86 (Order No. 86-1159); PUC 10-1998, f. & ef. 4-28-98 (Order No. 98-170); PUC 3-1999, f. & ef. 8-10-99 (Order No. 99-468)

860-032-0060

Reporting Requirements

The purpose of this rule is to provide the Commission with accurate information in order to carry out the Legislative policy of ORS 759.015.

(1) General:

~~(a) Telecommunications utilities shall maintain books and records in accordance with the Uniform System of Accounts (USOA) as provided in OARs 860-027-0050 and 860-034-0395. Competitive providers shall maintain books and~~

~~records in accordance with the USOA or Generally Accepted Accounting Principles (GAAP); and~~

~~(b)~~ The books and records of all telecommunications providers shall be open to the Commission and subject to audit to the extent needed to verify required reports.

(2) Annual report – form and filing date:

(a) Competitive providers – On forms provided by the Commission, each competitive provider, including shared service providers, shall submit an annual report before ~~March~~ April 1, containing data required by section (3) of this rule ~~relating~~ related to its operations for the preceding calendar year. ~~Competitive providers need not file any other reports with the Commission, except on special order.~~

(b) Telecommunications utilities – Telecommunications utilities shall submit annual reports as required by OARs 860-027-0070 or 860-034-0395. On forms provided by the Commission, each telecommunications utility shall submit an annual report before March 1, containing data required by section (3) of this rule, related to its toll operations for the preceding calendar year. Data must be submitted only for the items designated in subsections (3)(a), (3)(b), (3)(d), and (3)(e) of this rule. Reports required by this rule are in addition to and not in lieu of reports otherwise required by the Commission for telecommunications utilities.

(c) Cooperatives – Cooperatives shall submit annual reports as required by OAR 860-034-0750. Each cooperative that does not file an annual report pursuant to OAR 860-034-0750 shall submit an annual report before April 1, on forms provided by the Commission, containing data required by section (3) of this rule related to its operations for the preceding calendar year.

(3) Annual report – contents:

(a) Exact legal Bbusiness name, and street address, mailing address, and telephone number; and including;

(A) Name, address, telephone number, and position of the person ~~in Oregon designated by the telecommunications provider as who is the~~ contact for the Commission and its staff; and

(B) Name, address, telephone number, and position of the person ~~in Oregon designated by the telecommunications provider as who is the~~ contact for the general public;

~~(b) A description of toll services being provided in Oregon, including a list of areas actually served and a designation of the new service areas added during the year;~~

(b) Other names used in Oregon, including Assumed Business Names, “Doing Business As” names, and “Also Known As” names;

(c) Former names used in Oregon during the past three calendar years;

(ed) Interests, as defined by ORS 759.010, which are affiliated with the telecommunications provider and which are authorized to provide service, or are actually providing service, in Oregon;

(e) Areas in Oregon served;

(f) Types of telecommunications services provided;

(g) How the services are provided, whether by resale, the telecommunications provider's own facilities, use of building blocks (unbundled network elements), or a combination of the above;

(h) As applicable: number of customers, number of lines, originating conversation minutes, percent of conversation minutes which are intrastate and percent which are interstate, and revenue from Oregon operations;

~~(d) Originating conversation minutes tabulated for each calendar quarter and totaled for the year;~~

~~(e) Percentage of originating minutes which is intrastate and percentage which is interstate. No such separation shall be required of competitive providers whose sole responsibility is to provide building tenants direct access to local exchange carriers;~~

~~(f) In reports from shared service providers, the name of lines or commercial trunks used to provide the shared services. The number of lines or trunks shall be tabulated by calendar quarter; and~~

(g4) If the Commission receives a public records request for materials information submitted pursuant to subsections (3)(d), (3)(e), and (3)(f)(3)(h) of this rule, the Commission shall assert that, subject to the limitations of the Public Records Law, the materials are trade secrets and, therefore, exempt from disclosure. The material that utilities and competitive providers provide shall be submitted in a separate envelope, shall be marked "EXEMPT FROM PUBLIC DISCLOSURE AS TRADE SECRETS." Subject to the applicable requirements of the Public Records Law or ORS 759.060, Access to this material shall be limited to Commissioners, their Counsel, and Commission employees who are assigned to compile or analyze the information staff. The materials shall be segregated and maintained in a locked file.

~~[Publications: The publication(s) referred to or incorporated by reference in this rule are available from the office of the Public Utility Commission.]~~

Stat. Auth.: ORS Ch. 183, 192, 756 & 759

Stats. Implemented: ORS 756.040, 756.105, ~~759.120, 759.125 & 759.130~~
759.020 & 759.050

Hist.: PUC 17-1988, f. & cert. ef. 11-15-88 (Order No. 88-1306); PUC 12-1997, f. & ef. 10-30-97 (Order No. 97-413); PUC 10-1998, f. & ef. 4-28-98 (Order No. 98-170); PUC 3-1999, f. & ef. 8-10-99 (Order No. 99-468)

860-032-0210

Price List Petitions

(1) When submitting a petition for price listing pursuant to ORS 759.195, the utility shall submit a list of the services deemed to be essential and a list of the remaining services. The utility shall provide the following information:

(a) A description of each price-listed service; and

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(b) Any proposed maximum price to be charged for the price-listed service and the basis upon which this price has been established.

(2) The petition shall demonstrate that the following conditions have been met:

(a) Pricing flexibility is reasonably necessary to enable the utility to respond to current and future competitive conditions for any or all telecommunications services;

(b) Pricing flexibility will maintain the appropriate balance between the need for price flexibility and the protection of customers and applicants;

(c) Pricing flexibility is likely to benefit the customers of fixed-rate services;

(d) Pricing flexibility is unlikely to cause any undue harm to any customer class; and

(e) The rate for the service is not lower than the long-run incremental cost of providing the service.

Stat. Auth.: ORS Ch. 183, 756, & 759 ~~& 767~~

Stats. Implemented: ORS 756.040, 759.030 & 759.190

Hist.: PUC 18-1988, f. & cert. ef. 12-29-88 (Order No. 88-1522); PUC 10-1998, f. & ef. 4-28-98 (Order No. 98-170)

860-032-0220

Application for Service by Unserved Person

(1) Applications under ORS 759.590 for an order of the Commission directing another telecommunications utility to provide local exchange service to an unserved person shall contain the following information:

(a) The name, address (both a physical address to which service is requested and a mailing address), and telephone number (if any) of the applicant or unserved person.

(b) The name ~~and address~~ of the telecommunications utility in whose service territory the applicant is located, if known.

(c) The name ~~and address~~ of the telecommunications utility who is willing to provide local exchange service to the applicant, if any.

(d) Such information and supporting data needed for the Commission to make the findings described in ORS 759.595(1), including, if known:

(A) The line extension charges or other facilities installation charges estimated by the telecommunications utility in whose territory the applicant is located; and

(B) The line extension charges or other facilities installation charges estimated by the telecommunications utility from which the applicant seeks local exchange service.

(2) The application shall be signed by the applicant, or the applicant's agent or attorney.

(3) An original and two copies of the application shall be filed with the Commission.

(4) The applicant shall mail or otherwise serve a copy of the application ~~upon~~ the telecommunications utility in whose territory the applicant is located and the telecommunications utility from which the applicant seeks local exchange service.

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(5) The Commission shall, upon request of the applicant or any telecommunications utility ~~that would be~~ affected by ~~the~~ granting of the application ~~by the Commission~~, hold a hearing to determine whether the application should be granted. Also, the Commission may hold such a hearing on its own initiative.

Stat. Auth.: ORS Ch. 183, 756, & 759 ~~& 767~~

Stats. Implemented: ORS 756.040, 759.580, ~~& 759.585~~, 759.590 & 759.595

Hist.: PUC 5-1993, f. & ef. 2-19-93 (Order No. 93-184); PUC 10-1998, f. & ef. 4-28-98 (Order No. 98-170)

860-032-0230

Pay Telephones

(1) This rule does not apply to pay telephones located within inmate areas of jails, prisons, or similar institutions.

(2) A pay telephone must allow free access to emergency 9-1-1 and must not limit the duration of calls to 9-1-1.

(3) Unless the pay telephone is restricted to local calling:

(a) Access to all available alternative interLATA and intraLATA long distance carriers via 10XXX+0 dialing must be allowed where equal access exists, and

(b) In all areas access to all available alternative interLATA and intraLATA long distance carriers must be allowed via “800” and 950-XXXX numbers.

(4) Pay telephones must carry a label which includes:

(a) The owner and the number to call for reporting problems;

(b) Notification if the pay telephone provider has knowledge of extensions which enable eavesdropping on calls;

(c) The price of a local call;

(d) Any toll or local calling time duration restrictions;

(e) Notification if the pay telephone will reject incoming calls;

(f) The presubscribed interLATA and intraLATA long distance carriers;

(g) Notification that this telephone provides access to all available ~~interLATA~~ long distance carriers; and

(h) Notice to dial 9-1-1 for emergencies.

Stat. Auth.: ORS Ch. 183, 756 & 759

Stats. Implemented: ORS 756.040 & 759.690

Hist.: PUC 1-1994, f. & ef. 1-5-94 (Order No. 94-040); PUC 10-1998, f. & ef. 4-28-98 (Order No. 98-170)

860-032-0240

Methods for Changing a Telephone Customer’s Interexchange Carrier

[PUC 11-1994, f. & ef. 7-21-94 (Order No. ~~94-1127~~ 94-1126); Repealed by PUC 4-1997, f. & ef. 1-7-97 (Order No. 96-329)]