

ORDER NO.00-303

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**BEFORE THE PUBLIC UTILITY COMMISSION**  
**OF OREGON**

AR 375

In the Matter of a Rulemaking to Amend OAR	)	
Chapter 860, Divisions 023 and 034 to Adopt	)	
Rule Changes to Implement SB 622, Section	)	
29, Minimum Service Quality Standards for	)	ORDER
Providing Retail Telecommunications Services.	)	
	)	

**DISPOSITION: RULE AMENDMENTS ADOPTED**

**Introduction.** On September 1, 1999, Governor John A. Kitzhaber signed Senate Bill 622 (SB 622) into law. Section 29 of that law directs the Public Utility Commission to determine minimum service quality standards that relate to the provision of retail telecommunications services to ensure safe and adequate service. The minimum service quality standards adopted under Section 29 would apply to all telecommunications carriers. Section 29, now codified at ORS 759.450, provides:

(1) It is the intent of the Legislative Assembly that every telecommunications carrier and those telecommunications utilities and competitive telecommunications providers that provide wholesale services meet minimum service quality standards on a nondiscriminatory basis.

(2) The Public Utility Commission shall determine minimum service quality standards that relate to the provision of retail telecommunications services to ensure safe and adequate service. Except as provided in subsection (8) of this section, minimum service quality standards adopted under this section shall apply to all telecommunications carriers. The commission by rule shall review and revise the minimum service quality standards as necessary to ensure safe and adequate retail telecommunications services.

(3) The minimum service quality standards for providing retail telecommunications services adopted by the commission shall relate directly to specific customer impact indices including but not limited to held orders, trouble reports, repair

intervals and carrier inquiry response times. In adopting minimum service quality standards, the commission shall, for each standard adopted, consider the following:

- (a) General industry practice and achievement;
- (b) National data for similar standards;
- (c) Normal operating conditions;
- (d) The historic purpose for which the telecommunications network was constructed;
- (e) Technological improvements and trends; and
- (f) Other factors as determined by the commission.

(4) Consistent with the federal Telecommunications Act of 1996 (Public Law 104-104), as amended and in effect on September 1, 1999, the commission may establish minimum service quality standards related to providing wholesale, interconnection, transport and termination services provided by a telecommunications carrier and those telecommunications utilities and competitive telecommunications providers that provide wholesale telecommunications services.

(5) The commission shall require a telecommunications carrier, telecommunications utility or competitive telecommunications provider that is not meeting the minimum service quality standards to submit a plan for improving performance to meet the standards. The commission shall review and approve or disapprove the plan. If the carrier, utility or provider does not meet the goals of its improvement plan within six months or if the plan is disapproved by the commission, penalties may be assessed against the carrier, utility or provider on the basis of the carrier's, utility's or provider's service quality measured against the minimum service quality standards and, if assessed, shall be assessed according to the provisions of ORS 759.990.

(6) Prior to commencing an action under this section and ORS 759.990, the commission shall allow a telecommunications carrier, telecommunications utility or competitive telecommunications provider an opportunity to demonstrate that a violation of a minimum service quality standard is the result of the failure of a person providing telecommunications interconnection service to meet the person's interconnection obligations.

(7) Total annual penalties imposed on a telecommunications utility under this section shall not exceed two percent of the utility's gross intrastate revenue from the sale of telecommunications services for the calendar year preceding the year in which the penalties are assessed. Total annual penalties imposed on a competitive telecommunications provider under this section shall not exceed two percent of the provider's gross revenue from the sale of telecommunications services in this state for the calendar year preceding the year in which the penalties are imposed.

(8) The provisions of this section do not apply to:

(a) Radio communications service, radio paging service, commercial mobile radio service, personal communications service or cellular communications service; or

(b) A cooperative corporation organized under ORS chapter 62 that provides telecommunications services.

Sections 30 and 41 of SB 622 are not codified. Those sections provide:

(1) In addition to the minimum service quality standards established by the Public Utility Commission under section 29 of this 1999 Act [759.450], a telecommunications carrier that elects to be subject to sections 24 and 25 of this 1999 Act [759.405 and 759.410] shall be subject to the retail telecommunications service quality standards and associated penalties for noncompliance established in this section. Retail telecommunications service quality standards and associated penalties are as follows:

(a)(A) Held orders. A customer request for access line telephone service shall be considered a held order if the service is not installed due to facility reasons within five business days of the date the service is scheduled to be installed, unless a different date is agreed to by the customer and the telecommunications carrier. The average monthly number of held orders shall not exceed 6.25 per 1,000 inward orders and shall be calculated as a monthly average for each quarterly period. A penalty of \$20,000 per held order per quarterly period in excess of the standard may be assessed.

(B) As used in this paragraph, "access line" means a dial tone line that provides basic exchange services extending from the carrier's switching equipment to a point of termination at the premises of the carrier's end use customer.

(b) Held orders over 30 days. The number of held orders for primary basic telephone service held for facility reasons in excess of 30 business days shall not exceed 20 percent of the total held order standard for each quarterly period. A penalty of \$10,000 per held order in excess of the standard may be assessed.

(c) Trouble report rate. A wire center shall not have more than four trouble reports per 100 access lines per month calculated as a monthly average for each quarterly period, excluding those trouble reports beyond the control of the telecommunications carrier. A penalty of \$25,000 per wire center may be assessed for each month of noncompliance with this standard.

(d) Network blockage. Of all properly dialed calls, 98 percent shall not experience blockage during any normal busy hour, excluding blockage that is beyond the control of the telecommunications carrier. A penalty of \$10,000 per wire center may be assessed for each month of noncompliance with this standard.

(e) Trouble reports cleared. Of all trouble reports, 90 percent shall be cleared within 48 hours. A penalty of \$15,000 per month may be assessed for each month of noncompliance with this standard, except that a penalty shall not be assessed if the telecommunications carrier has met this standard on an overall basis for the annual period.

(f) Repair center access. Of calls to a telecommunications carrier's repair center or centers, 80 percent shall be answered in 20 seconds or less. A penalty of \$15,000 per month may be assessed for each month of noncompliance with this standard.

(g) Sales office access. Of calls to a telecommunications carrier's sales office or offices, 75 percent shall be answered in 20 seconds or less. A penalty of \$15,000 per month may be assessed for each month of noncompliance with this standard.

(2) The service quality standards established in this section and section 29 of this 1999 Act apply to normal operating conditions and do not establish a level of performance to be achieved during periods of emergency, catastrophe, natural disaster, severe storm or other events affecting large numbers of telecommunications customers. The service quality standards shall not apply to extraordinary or abnormal conditions of operation such as those conditions resulting from work stoppage or slowdown, civil unrest or other events for which the telecommunications carrier reasonably may not have been expected to accommodate. To the extent such conditions affect the performance of a telecommunications carrier, it shall be the responsibility of the telecommunications carrier to separately document the duration and magnitude of each occurrence.

(3) A telecommunications carrier subject to this section shall report to the commission quarterly the carrier's performance relative to each of the minimum service quality standards.

(4) Penalties for a violation of the service quality standards established under this section shall be imposed by order following complaint as provided under ORS 756.500 to 756.610. Any complaint filed under this section shall be filed within 90 days of each anniversary of the date the telecommunications carrier became subject to regulation under sections 24 and 25 of this 1999 Act. Penalties imposed under this section shall be:

(a) Paid in the form of bill credits to the telecommunications carrier's customers in a manner approved by the commission; or

(b) Directed by the commission to targeted investments by the telecommunications carrier to address specific issues of service quality.

(5)(a) Total combined annual penalties imposed on a telecommunications utility under this section and sections 29 and 38 of this 1999 Act [759.450 and 759.455] shall not exceed two percent of the utility's gross intrastate revenue from the sale of telecommunications services in the calendar year preceding the year in which the penalties are assessed.

Penalties imposed under section 29 of this 1999 Act shall be reduced by an amount equal to the penalty amount incurred by a telecommunications utility under this section, provided the penalties are imposed or incurred for violations resulting from the same incident.

Sec. 41. Section 30 of this 1999 Act is repealed January 1, 2004.

This rulemaking docket was opened to comply with the Legislature's directive in Section 29. On January 14, 2000, Commission Staff (Staff) recommended at a Commission public meeting that the Commission open a rulemaking to revise the current service quality rules, OAR 860-023-0055 and 860-034-0390, for telecommunications carriers, telecommunications utilities, and small telecommunications utilities. The Commission approved Staff's recommendation and adopted a schedule for the rulemaking: initial comments due on February 25, 2000, reply comments due on March 24, 2000, and a comment hearing on April 6, 2000. The comment period closed on April 17, 2000.

Prior to redrafting the rules, Staff held workshops and received comments from many industry representatives and other concerned parties. Staff submitted its proposed rules at the public meeting of January 14. The proposed rules consist of 15 sections and are the same for both affected chapters.

**Staff's Proposed Rules.** According to Staff, its proposed rules incorporate the following significant changes from the current rules:

- The standards were formatted to specifically identify measurement, objective service level, reporting and retention requirements. This format includes more detail on requirements and specifically sets reporting requirements for each standard.
- Wording was changed to reflect the standard's application to all telecommunications carriers. A significant amount of general language was changed.
- New definitions were added and old definitions were updated.
- The option for the average number of held access line orders allowed in a month was changed from 4 per 1,000 inward orders to 5 per 1,000 inward orders.
- A standard was established for primary held orders in excess of 30 days.
- Once a request for service becomes a held order, the time for a telecommunications carrier to provide a written commitment to the customer was changed from 15 days to 5 days.
- Trouble reporting was changed from a 12 month rolling average to a monthly value. A new method of meeting the standard was developed.
- The "Blocked Calls" standard was changed. Trunk group blockage and switch operation blockage were better defined.
- The standard on "Access to Telecommunications Carrier Representatives" was changed.
- The "Average Repair Clearing Time" reporting was changed from a statewide percentage to a percentage for each repair center within the Telecommunications Carrier's Oregon territory.

- The “Customer Access Line Testing” standard was expanded. The maximum power influence level was added to the standard as a goal since necessary repair action is usually a joint action between the telecommunications and electric industries. The loop current level was adjusted to comply with the changing technology used in modern telecommunications.
- “Telecommunications Carrier Interconnectivity” was changed to clarify that all telecommunications carriers must operate in a manner that would not impede their ability to meet standards.
- The “Installation Agreements” section was deleted.
- The “Exemption from these Rules” section was reworded to capture the present and future telecommunications environments.

For each standard it proposed in its new rules, Staff considered the criteria set out at Section 29(3) of SB 622 (ORS 759.450(3) above). The way Staff applied each criterion is discussed in the following.

*(a) General Industry Practice and Achievement.* Staff based its proposed rules on the existing service quality rules, but changed the language to add clarity and specificity to the standards. Staff believes that the proposed rules will provide each carrier with the same bases for reporting service quality information.

Telecommunications utilities in Oregon have generally met the existing standards. Staff believes that its proposed rules are therefore achievable and comply with general industry practice. Under the current rules, the four largest carriers in Oregon provide monthly reporting of their trouble report rate for all wire centers. Three of the four provide a mix of actual number reporting and required exception reporting on the remaining standards; the fourth carrier reports actual numbers monthly.

Despite trouble in the past, Staff notes that U S WEST (USWC) has recently been meeting the current held order standard. Staff believes that USWC will be able to substantially comply with the proposed trouble report and blocking standards as well. GTE, CenturyTel, and Sprint generally meet the current standards with no difficulty. Trouble reports is the only area of difficulty. Staff proposes a modification of the current standard to eliminate the minor problems these companies have experienced.

*(b) National Data for Similar Standards.* Staff reviewed a matrix presented by USWC, with telecommunications standards for all states but Hawaii. Staff also reviewed various states’ standards posted on state commission internet sites and discussed service quality standards with Staff members from other commissions at a NARUC training session. Staff concluded that there was a consensus among states that many state rules need updating. Many

commissions are taking steps to make service quality standards more stringent to ensure safe and adequate service from telecommunications carriers.

In its review of national data, Staff noted that commission representatives from the 14 states that comprise the USWC Regional Oversight Committee (ROC) have discussed telecommunications standards. The ROC's 1996 recommendations formed the foundation on which our current and Staff's proposed rules were based. Staff adopted all ROC benchmarks for service quality.

Further, Staff reviewed the National Association of Regulatory Utility Commissioners (NARUC) policy resolution, "Service Quality White Paper," adopted at the 1998 annual NARUC convention. The resolution reiterated concerns about downward trends in the quality of telecommunications service. Staff integrated the White Paper's philosophy into its proposed rules.

*(c) Normal Operating Conditions.* Staff considered the use of the telecommunications network as defined by Telcordia's SR-2275, Bellcore Notes on the Network, dated December 1997, for the measurements in each standard of the proposed rules. Staff notes that this document has broad industry acceptance as the definitive reference document on normal use of the telecommunications network in the United States.

*(d) Historic Purpose for Which Telecommunications Network Was Constructed.* Staff understands the network's original purpose to be plain old telephone service, or POTS. At present, however, not only business but also individual customers are requiring data traffic capabilities. The average duration of a call has changed from 3 minutes to 42 minutes, in large part due to the Internet. Many customers now have two and three access lines per household. The Internet has changed calling patterns and placed new challenges on the network.

According to Staff, the telecommunications industry has handled its new challenges well and has made the necessary enhancements and adjustments to provide the required service. However, in areas where outside plant has not yet been expanded to meet this growth, creative engineering may be necessary to provide the requested service. In consideration of increased demand for lines caused by the Internet, Staff has recommended an increase in the optional method of determining held orders. Staff's proposal would allow a 25 percent increase as compared to the existing rules.

*(e) Technological Improvements and Trends.* This criterion overlaps with criteria listed at (a), (b), and (d). In discussing this criterion, Staff uses the standard for trouble reports because this, of all the service standards, has been the most affected by technological change.

In the matrix of state service quality standards provided by USWC, the trouble reports per hundred access lines per month included values between 6 and 8. NARUC proposed these numbers in the early 1970s as standards achievable by electromechanical switching systems and mostly copper outside plant containing analog loop electronics. In the interim, telecommunications technology has changed in two ways. Switching systems have evolved to analog electronic and then to digital electronic. The outside plant (cables) has advanced from copper wire and analog electronics to fiber optic cable and digital electronics. Staff submits that there is a symbiotic relationship between digital switches and digital fiber optic outside plant.

As Staff sees it, the advantage of digitization is the ability to extend digital connectivity using host switching units, remote switching units (RSU), and Remote Terminals. Telcordia, formerly Bellcore, describes this system in its SR-2275, Bellcore Notes on the Network, Issue 4, December 1997, Section 4, Para. 4.1.3.2, as follows:

The RSU is a smaller and more cost effective system than traditional stand-alone switching entities . . . . One of the attributes of the host/remote distributed system is the ability to start new wire centers at a smaller size than is economically feasible for larger, stand-alone systems, while still providing the customers in the serving area with all the features of the Stored Program Control (SPC) host system. Remote switching has a number of applications, including Community Dial office (CDO) replacement or capping, new small wire center formation, and extension of new features or services to electromechanical wire centers.

During the transformation from electromechanical to digital systems, the electronic components of telecommunications systems underwent fundamental changes. The power of integrated circuits doubled every 18 months or so. There were substantial increases in the reliability of digital systems. Glass fibers became the medium of choice first for long haul and then for short haul transmission systems. Lasers replaced electronics in the repeater systems of optical fibers. The capacity of fiber optic transmission systems grew exponentially. All these improvements resulted in a steady decline in the monthly trouble report rates. The 6 to 8 per hundred access lines per month of the mid 1970s became an achievable .5 to 1.5 per hundred access lines per month by the early 1990s.

Staff notes that trouble reports are not the only service standard to be affected by the digitization of telecommunications networks and equipment. Transmission standards, loop standards, blockage standards, and held order standards have become easier to meet because of technological improvements and trends. Transmission standards are easier to meet today because the amplitude settings on amplifiers have gone from manual, analog adjustments to simple keyboard entries at the time of trunk turn-up. As digital electronics and fiber move into the loop, they obviate the need for load coils and coarser gauge cable. With the use of



carrier serving areas, the loop current parameter should be easier to attain. Fiber in the feeder requires either an addition to or change of the electronics on the end of the fiber to add more lines. This should give more flexibility to a carrier and control of held orders.

According to Staff, with interoffice trunks on fiber, adding more trunks to prevent blockage requires an addition to or change of the terminal electronics. No additional fiber should be necessary. Technological change has made telecommunications networks more reliable, flexible, powerful, faster, capacious, and economical than they were. Networks have evolved from the historic purposes for which they were constructed into today's networks, providing high quality service.

*(f) Other Factors as Determined by Commission.* Staff reviewed the Commission's Consumer Services Division complaint data and analyzed the complaint levels. In 1999, telecommunications complaints accounted for 83 percent of the total complaints received among all the utilities regulated by Commission. The complaint data the Commission has compiled for 1996-1999 for telecommunications, electric, and natural gas utilities also indicate that Oregon customers are not as satisfied with telecommunications service as with other types of utility service. From these indicators, Staff concludes that a general weakening of standards would not be in the public interest.

**The Proposed Rules: Procedure.** Comments were received from:

- American Association of Retired Persons (AARP)
- AT&T Communications of the Pacific Northwest, Inc., and AT&T Local Services on behalf of TCG Oregon (AT&T)
- CenturyTel of Oregon, Inc., and CenturyTel of Eastern Oregon, Inc. (CenturyTel)
- Commission Staff
- GTE Northwest Incorporated and GTE Communications Corporation (GTE)
- MCI WorldCom (MCI)
- Oregon Telecommunications Association (OTA) Small Company Committee
- Oregon Telecommunications Association (OTA)
- Sprint/United Telephone Company of the Northwest (Sprint)
- Teligent Services, Inc. (Teligent)
- U S WEST Communications, Inc. (USWC)
- Western States Competitive Telecommunications Coalition (WSCTC)
- Bill Wyatt, Chief of Staff for Governor John Kitzhaber
- Jim Hill, State Representative, Fifth District, Oregon
- David Nelson, State Senator, District 29, Oregon
- Four members of the public

Throughout the workshop, comment, and hearing process, Staff made changes to the rules. The rules we discuss below are Staff's most recent version.

**The Proposed Rules: Issues. *Statutory Construction; Policy Questions.***

Staff's proposed rules have provoked much comment. This order will discuss the rules section by section, but we must first resolve some issues of statutory construction and policy.

*Relationship between Section 29 and Section 30 Standards.* GTE, CenturyTel, and Sprint contend that the standards adopted in rules drafted to implement Section 29 of SB 622 must, as a matter of law, be less stringent than the standards enunciated in Section 30. These participants interpret the phrase "minimum service quality standards" as calling for relatively weak standards, with stronger standards for the companies subject to the Section 30 standards—that is, companies that opt in to the price cap regime set out in Section 25 of SB 622.

GTE and CenturyTel observe that Section 29 calls for the Commission to adopt "minimum service quality standards." They further observe that Section 30's standards are introduced by the phrase "in addition to." Accordingly, GTE and CenturyTel argue that the Section 29 standards must be less stringent than the Section 30 standards. Otherwise, these parties contend, the Section 29 standards would be "maximum" standards. They further argue that "in addition to" means that the Section 30 standards are over and above those in Section 29.

Because both sections contain standards that apply to carriers opting into price cap regulation, GTE and CenturyTel also argue that for Section 30 to have meaning, its standards must be stricter than those in Section 29. Otherwise, it would simply be redundant, an outcome that violates the rules of statutory construction.

GTE also argues that such a scheme makes sense: carriers who opt in to price cap regulation experience a more relaxed regulatory environment for pricing, so they are subject to higher service quality standards. Finally, GTE notes that Section 29 standards are meant to ensure safe and adequate service, which implies lower standards than whatever might "in addition" apply to price cap carriers under Section 30.

In advocating for the position that Section 29 standards must be less stringent than Section 30 standards, commentators have brought legislative history and comments from participants in the legislative process to bear. We consider legislative intent, however, only when the statute is ambiguous. In this case, our approach entails first a reading of the statute, guided by the principle that we must give effect to all parts of a statute. As GTE has pointed out, the basic rules of statutory construction require that each part of a statute be considered in determining the intent of the legislature. Courts will not "look at one subsection of a statute in a

vacuum; rather, [they] construe each part together with the other parts in an attempt to produce a harmonious whole.” *Lane Co. v. Land Conservation and Development Comm’n*, 325 Or 569 (1997). Also, statutes must be construed so as to give effect to each provision. ORS 174.010; *Owens v. Maass*, 323 Or 430 (1996).

GTE uses these principles to support its position that in drafting SB 622, the Legislature intended a progressive regulatory approach that recognizes the existing and emerging competitive environment in the telecommunications industry in Oregon. We read the statute similarly but believe that Section 29 and Section 30 function differently from GTE’s reading. Our reading takes into consideration a portion of the statute that the commentators have not mentioned, namely Section 41, set out above, which repeals Section 30 as of January 1, 2004.

Taking Section 41 into account, the statutory scheme is as follows. Section 30 establishes an immediate set of standards for the carriers who can opt into price cap regulation. These will be the carriers who are best established in the market and whose service quality affects the greatest number of customers at the present time. The legislative standards established for these carriers in Section 30 were meant to give their retail customers the protection of the legislated standards from the moment the legislation took effect. The standards are easier and more expeditious to enforce than the Section 29 standards, because the Commission can enforce them without recourse to court action.

The only explicit relational term in the statutory language that links Section 29 and Section 30 is “in addition.” That phrase does not establish a hierarchy of standards. It merely indicates that the two sets of standards will coexist for some period. When the Section 30 standards go out of existence, all telecommunications carriers with more than 1,000 access lines will be subject to the Section 29 standards. Thus we agree with GTE that the Legislature intended a progressive regulatory approach in SB 622. The progress is temporal, however, rather than hierarchical by type of regulation. For the next roughly three and a half years, the price cap carriers will be subject to the Section 30 standards, quickly enforceable by the Commission. In roughly three and a half years, those carriers, like all other telecommunications carriers in Oregon, will be subject only to Section 29 standards.

The use of the term “minimum” as a descriptor of Section 29 standards does not create a hierarchical relationship between Section 29 and Section 30 either. The commentators who argue along these lines seem to assume that “minimum” means “low” or “minimal.” We disagree. The Legislature has asked us to establish standards as a floor (that is, minimum standards), under consideration of the five factors explicitly listed in Section 29(3) of the statute and other factors to be determined by the Commission. The use of the term “minimum” does not establish a relationship between the standards we enact pursuant to Section 29 and the standards in Section 30.

*Mandated Section 29 Criteria.* USWC, Sprint, and OTA contend that in the Section 29(3) list of criteria for the Commission's consideration, Staff has failed to align its proposed rules with national data for similar standards and the influence of the standards on competition, a criterion that is not on the list. As a result, these commentators argue, Staff has substituted its judgment for that of the Legislature. Sprint agrees with USWC that the intent behind SB 622 (Oregon Laws 1999, chapter 1093), as confirmed by the letter from David Nelson, one of the bill's sponsors, was to set minimum standards equal to standards adopted nationwide.

The statute asks the Commission to consider national data on similar standards. Staff has done so. It has considered the matrix on national standards that USWC presented, and has also visited the internet sites of various state commissions and discussed service quality standards with members from other commissions.

Section 29 does not speak more explicitly about the relationship between any standards we may adopt and national data on similar standards. USWC has read the mandate to consider these data as a mandate to "adopt new minimum service quality standards consistent with national standards." USWC Supplemental Comments, April 17, 2000. USWC has imported a meaning into the statute that is not present in the statutory language. While all the criteria must be considered, none is given preferential status in the statute.

OTA's argument about the influence of the standards on competition is also without support in the statutory language.

Both OTA and USWC argue that the legislative intent in SB 622 is to place Oregon in the mainstream as to service quality standards for telecommunications carriers. We reject this argument for two reasons. First, there is no set of national service quality standards. Each state has gone its own way, and some have no standards for the categories we choose to regulate.

Second, nothing in SB 622 vitiates the Legislature's earlier goal, as articulated in ORS 759.015, to "secure and maintain high quality universal telecommunications services . . . . The Public Utility Commission shall administer the statutes with respect to telecommunications rates and services in accordance with this policy." The effect of situating Oregon in the mainstream, to the extent that position could be identified, would be to lower service quality standards. We do not believe that outcome is consistent with the policy stated above.

*Lowering Service Quality Standards.* We note that the effect of reading SB 622 to call for lower standards in Section 29 than in Section 30 or to place Oregon in the national mainstream as to service quality standards would be to lower the service quality standards currently in place. We reject that outcome. The four members of the public who

submitted comments in this docket asked us not to lower service quality standards, as did WSCTC.

Generally, the commentators who argued for less restrictive service quality standards argued as well that competition should function to police the market and that poor service quality would cost a carrier business. The rules provide for relaxation of oversight once competition is established.

*To Whom Do the Rules Apply?* GTE argues that the retail service quality rules should apply only to eligible telecommunications carriers, as defined in OAR 860-033-0005(7). That subsection defines eligible telecommunications carriers as those who meet a set of criteria qualifying them for universal service support. GTE believes the Commission has latitude to differentiate between types of service offerings in a manner that is consistent with both the development of a competitive market and preservation of reliable universal service and recommends that minimum standards apply only to eligible carriers.

MCI argues that the measurement and reporting portions of the proposed rules should not apply to competitive local exchange carriers (CLECs). AT&T argues that the rules be held in abeyance as they apply to CLECs until wholesale service quality rules are adopted in a later proceeding. Sprint also argues that the Commission should exempt competitive providers from reporting requirements. Teligent is in this camp as well, arguing that new entrants must compete on the basis of service quality and price and that the Commission should let competition do the job of measurements and standards. At the other extreme, Representative Hill contends that there should be absolutely no exceptions to the rules' applicability.

We have weighed the participants' arguments about the application of the rules and conclude that the rules, with the narrow exception for companies serving fewer than 1,000 lines, are to apply to all telecommunications carriers in Oregon. The Legislature has made its language unambiguous. We believe that the exclusion of very small carriers is justified by reading Section 29(1) in the context of state and federal policy mandating competition in the telecommunications industry. That section, set out above, calls for the application of the Section 29 standards to all telecommunications carriers on a nondiscriminatory basis. We understand the words "on a nondiscriminatory basis" to give us the flexibility to recognize that very small carriers lack the financial resources to measure and report and lack the ability to charge their customers directly for the costs of measuring service quality and preparing reports as telecommunications utilities have historically done. The exclusion in Staff's proposed rules for carriers with 1,000 or fewer lines allows start-up companies to enter the market and establish themselves before becoming subject to our reporting requirements. We note, however, that the exception applies only to measuring and reporting, not to meeting the service quality standards. If the Commission wishes, it may require reports from these small carriers as well.

Apart from this exception for the smallest carriers, however, we do not believe that the Legislature gave us the discretion to apply the rules as GTE, MCI, AT&T, Sprint, and Teligent urge.

*Applicability to Resellers.* Staff originally proposed distinguishing between resellers and facilities based carriers. A number of the commentators have advocated such a distinction; others have argued against it. As discussions progressed, Staff abandoned the distinction for two reasons. First, SB 622 does not make such a distinction, and the distinction creates an unwieldy series of exceptions to various requirements of the rule. Second, Staff was unable to develop a definition of facilities based carrier specific enough to serve the purposes of this retail service quality rule. We understand that this lack of distinction will lead to the filing and review of more service quality data, but believe that operating without such a distinction is consistent with the intent of SB 622.

*Need for Completely New Rules?* USWC argues that Staff has not met its mandate from the Legislature because it has used the existing service quality rules as a basis for the new rules. USWC argues that Staff should have begun anew. We see no requirement that Staff begin anew in the legislation. It makes sense to use the current rules as a starting point. Staff has made significant modifications to them, as set out above.

*Exception Reporting.* GTE, OTA, and USWC recommend a continued reporting of rule violations on an exception basis. Various commentators also supported monthly and even quarterly reporting. Interestingly, USWC also took the opposing view, that current Commission rules requiring reporting on an exception only basis were flawed in that the Commission must assume that carriers are currently meeting the standards set forth in the Commission's rules. The OTA Small Company Committee recommends that all small telecommunications providers be exempt from the rules, based on principles of ORS 759.040.

Under Staff's proposed rules, all telecommunications carriers maintaining at least 1,000 access lines in the state would take the required measurements. All measurements would be compared to the standards within the rules. The rule for each standard sets out its own reporting requirements, whether on an exception basis or on a mandatory basis. For exception reporting, those measurements that do not meet the standard are reported to the Commission. For mandatory reporting, Staff selected only those reports that required monthly number reporting. Staff needs monthly information to ensure that standards are being met, identify potential problem areas, and to track trends.

Staff argues that reporting of information is the easiest part of the process. Most information is presented as a single statewide number. Larger carriers would be expected to have larger reports. Currently USWC reports almost every parameter in the present rules, including individual wire center information on four reports (transmission quality, switch overflow index, dial tone speed, and wire center trouble reports). The USWC report for January 2000

was 12 pages long. Summaries on the cover page showed the trouble report rate, business office access, held order, repair cleared within 48 hour, provisioning, and repair bureau access figures.

Once the measurements are taken, the reporting should not take much time. The reported information is essential for Commission analysis of the network. The proposed rules require the following reports, not including the exception reports: percentage of Commitments for Service Met (one number); Held Orders (two numbers), Trouble Reports (one spreadsheet that includes all wire centers), Repair Clearing Time (one spreadsheet that includes all repair centers), Access to Telecommunications Carrier Representatives (two numbers), and an explanation for those wire center trouble report rates that are in excess of 3.0. The smaller carriers should only need to provide a short list of numbers and an explanation for those wire centers (if applicable) that exceed the 3.0 trouble report rate. The maximum monthly report, by the proposed standard, would be five numbers, two spreadsheets, and an explanation of those wire center trouble report rates that are in excess of 3.0. Carriers can submit these reports by e-mail or fax. We conclude that the monthly reporting requirement should not overly burden any carrier.

USWC was concerned that exception reporting forces the Commission to assume that carriers are currently meeting the standards set forth in Commission's rules. Staff receives various written reports from the four largest carriers. They report the trouble report rate for each of their wire centers and other requested data. Staff corresponded with each, listed required exception reporting standards, and asked each if they were measuring and properly reporting the monthly results. All were. Staff does not see a problem for exception reporting for those measurements that do not require monthly number reporting. We conclude that Staff has struck an appropriate balance between exception reporting and required reporting in the proposed rules.

*Who Is at Fault?* The CLECs express concern that if we do not distinguish between facilities based and non facilities based carriers, those carriers who resell services may be held liable for service quality violations by the underlying carrier.<sup>1</sup> Subsection (6) of Section 29 provides:

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<sup>1</sup> Teligent and MCI suggest the following language:

Before commencing an action against any telecommunications carrier for violation of any service quality standard under Section 29(5) of Chapter 1093 Oregon Laws 1999, the carrier shall be given written notice by the Commission of the alleged service quality violation. If the carrier believes that the alleged violation was not caused by that carrier's own action or omission, but instead was the result of the failure of an underlying service provider or other interconnecting carrier to meet its obligations to the serving carrier, the serving carrier will be allowed to respond in writing to the Commission within 30 days of the date that the notice is served, and provide an explanation of the circumstances relevant to its position. If, based upon the serving carrier's written explanation, the Commission concludes that there is no reason to believe that the alleged violation was caused by the underlying or other interconnecting carrier, not by the serving carrier, the Commission

Prior to commencing an action under this section and ORS 759.990, the commission shall allow a telecommunications carrier, telecommunications utility or competitive telecommunications provider an opportunity to demonstrate that a violation of a minimum service quality standard is the result of the failure of a person providing telecommunications interconnection service to meet the person's interconnection obligations.

The presence of this provision in the statute obviates the need to repeat it in the rule. The underlying carrier in question will receive an opportunity to respond to any allegation that it has caused the other provider to be in violation of a minimum service quality standard. At this time, we will not codify the procedure for dealing with alleged violations due to an underlying carrier, to allow for informality and flexibility in dealing with such situations.

**Review of Staff's Proposed Rules.** Staff's proposed rules are set out below. Text in bold face represents additions or modifications to the rules as they existed at the time of hearing.

*Staff's goals.* Staff's goal in writing each standard<sup>2</sup> was to create an understandable rule and to ensure that each carrier would use the same bases for reporting service quality information. Pertinent information was included with each standard under the categories of Introduction, Measurement, Objective Service Level, Reporting Requirement, and Retention Requirement. The Measurement category outlines the type of measurement required. The Objective Service Level states the standard to be met. The Reporting Requirement clarifies who must file reports with the Commission and the frequency of reporting. The Retention Requirement sets the length of time documentation must be retained.

Text in **bold face** in the rules has been changed from Staff's last version of the rules on March 24, 2000.

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shall not institute any action against the serving carrier under Section 29(5). If, after considering the serving carrier's written explanation, the Commission concludes that there is no reason to believe that the alleged service quality violation was the fault of the underlying or interconnecting carrier, then the Commission may proceed against the serving carrier under Section 29(5). However, if, in the course of proceedings under Section 29(5), the serving carrier produces substantial evidence indicating that the alleged violation was in fact the fault of the underlying or other interconnecting carrier, then the burden of proof shall shift to the underlying or other interconnecting carrier to prove that its conduct was not the cause of the alleged service quality violation.

<sup>2</sup> GTE commented that Section 29, paragraph 3 of SB 622 requires the Commission only to establish standards regarding held orders, trouble reports, repair intervals, and carrier inquiry response time. The language in that paragraph tells the Commission to establish standards "including but not limited to" the ones GTE lists.



*Paragraph 1, Definitions.* As proposed, Section 1 reads:

Retail Telecommunications Service Standards

Every telecommunications carrier shall adhere to the following standards:

(1) Definitions.

(a) "Access Line" – A 4 KHz channel with tone dialing capability that provides local exchange telecommunications service extending from a telecommunications carrier's switching equipment to a point of termination at the customer's network interface.

(b) "Average Busy Season Busy Hour" – The hour which has the highest average traffic for the three highest months, not necessarily consecutive, in a 12-month period. The busy hour traffic averaged across the busy season is termed the average busy season busy hour traffic.

(c) "Blocked Call" – A properly dialed call that fails to complete to its intended destination except for a normal busy (60 interruptions per minute).

(d) "Commitment Date" – A date pledged by the telecommunications carrier to provide a service, facility, or repair action. This date is within the minimum time period set forth in these rules or a date determined by good faith negotiations between the customer and the telecommunications carrier.

(e) "Customer" – Any person, firm, partnership, corporation, municipality, cooperative, organization, governmental agency, or other legal entity that has applied for, been accepted, and is currently receiving local exchange telecommunications service.

(f) "Exchange" – Geographic area defined by maps filed with and approved by the Commission for the provision of local exchange telecommunications service.

(g) "Final Trunk Group" – A last-choice trunk group that receives overflow traffic and which may receive first-route traffic for which there is no alternative route.

(h) "Held Access Line Service Order (Held Orders)" – Request for access line service delayed beyond the commitment date due to lack of facilities. An order requiring the customer to meet specific reasonable prerequisites (for example, line extension charges) shall be measured from the time the prerequisites have been met. An access line service order (inward order) includes an order for new service, transferred service, additional lines, or change of service.

(i) "Network Interface" – The point of interconnection between the telecommunications carrier's communications facilities and customer terminal equipment, protective apparatus, or wiring at a customer's premises. The network interface shall be located on the customer's side of the telecommunications carrier's protector.

(j) "Retail Telecommunications Service" – A telecommunications service provided for a fee to customers. Retail telecommunications service does not include a service provided by one telecommunications carrier to another telecommunications carrier, unless the carrier receiving the service is the end user of the service.

(k) “Tariff” – A schedule showing rates, tolls, and charges that the telecommunications carrier has established for a retail service.

(l) “Telecommunications Carrier” – Any provider of retail telecommunications services, except a call aggregator as defined in ORS 759.690. This rule does not apply to radio communications service, radio paging service, commercial mobile radio service, personal communications service, cellular communications service, or a cooperative corporation organized under ORS Chapter 62 that provides telecommunications services.

(m) “Trouble Report” – A report of a malfunction on existing lines, circuits, or features made up to and including the network interface, to a telecommunications carrier by or on behalf of that telecommunications carrier’s customer.

(n) “Wire Center” – A telecommunications carrier “wire center” is a facility where local telephone subscribers’ access lines converge and are connected to a switching device which provides access to the public switched network, including remote switching units and host switching units. **A wire center does not include collocation arrangements in a connecting carrier’s wire center or broadband hubs that have no switching equipment.**

*Changes from Existing Rules.* Staff updated the existing definitions in this section and moved the types of service orders previously defined in paragraph (2)(a) into the definition for “Held Access Line Service Order.” Staff rewrote the definition of a “wire center” to clarify that a remote serving unit (RSU) is a wire center. There had been confusion about the definition of a wire center and whether RSU service quality information had to be reported. The new definition should correct this confusion.

Staff added eleven definitions: average busy season busy hour, blocked call, commitment date, customer, exchange, network interface, retail telecommunications service, T-1, tariff, telecommunications carrier, and trunk group.

Based on comments from AT&T, GTE, and Sprint, Staff changed its definition of access line (a) from a dial tone line to a 4 KHz channel with tone dialing capability. Staff also deleted the definition of a T-1 line, based on the change it made to Paragraph 11 (see below).

*Comments and Discussion.* Staff rejected Sprint’s proposal that the term “basic telecommunications services” be included within the rule. Staff maintains that the definition of basic telecommunications service it proposed in AR 368 is too restrictive for service quality purposes (Order No. 00-265). We believe that Staff’s definitions, for instance of access line, restrict the rules appropriately.

Staff added the last sentence to subparagraph (n), reflecting a comment by AT&T.

We adopt the definitions, Paragraph 1, as Staff has proposed.

*Paragraph 2, Measurement and Reporting Requirement.* Staff's proposal reads:

(2) A telecommunications carrier that maintains 1,000 or more access lines on a statewide basis must take the measurements required by this rule and report them to the Commission as specified. A telecommunications carrier that maintains less than 1,000 access lines on a statewide basis need not take the required measurements and file the required reports unless ordered to do so by the Commission.

*Comments and Discussion.* As discussed above, the language in Paragraph 2 strikes a balance between the requirements of Section 29 of SB 622 and the federal and state mandates to promote competition in the telecommunications industry. Section 29(2) of SB 622 states that "minimum service quality standards adopted under this section shall apply to all telecommunications carriers." The proposed language does not exempt anyone from meeting the standards in the proposed rule. Thus, all carriers are subject to the rule. The proposal merely permits carriers to avoid taking measurements and filing reports until they maintain at least 1,000 access lines, "unless ordered to do so by the Commission."

Numerous commentors urged the Commission to alter Staff's recommendation. Their positions range from Representative Hill's, who would like to see no exceptions to the measurement/reporting requirements, to the OTA Small Company Committee, which would prefer an exception for companies with up to 15,000 lines. We believe Staff has taken a reasonable position with respect to balancing the language of the law and our role in fostering competition. We adopt the paragraph as proposed.

*Paragraph 3, Additional Reporting Requirements.* The proposed rule reads:

(3) The Commission may require a telecommunications carrier to provide additional reports on any item covered by this rule.

*Comments and Discussion.* This paragraph was moved from the current Paragraph 11, and the original subparagraph (11)(b) was deleted so that the rules apply to all telecommunications carriers. Staff removed a general reporting requirement from former Paragraph 11 and substituted reporting requirements for each standard.

USWC argues for removal of this paragraph. We believe the discretion it gives us is important in a changing environment. GTE argues that a good cause standard should be expressed in the rule. We believe such a standard is implicit; we do not intend to use this discretion frivolously. We adopt the paragraph as proposed.

*Paragraph 4, Provisioning and Held Orders.* The proposed rule reads:

(4) Provisioning and Held Orders: The representative of the telecommunications carrier shall give a customer a commitment date of not more than **six** business days after a request for access line service, unless a later date is determined through good faith negotiations between the customer and the telecommunications carrier. Once a request for service becomes a held order, the serving telecommunications carrier must, within five days, **send or otherwise** provide the customer a written commitment to fill the order.

(a) Measurement:

(A) Commitments Met – A telecommunications carrier shall calculate the monthly percentage of commitments met for service across its Oregon service territory. Commitments missed for reasons attributed to customers or another carrier shall be excluded from the calculation of the “commitments met” results;

(B) Held Orders – A telecommunications carrier shall determine the total monthly number of held orders and the number of primary (initial access line) held orders over 30 days past the initial commitment date.

(b) Objective Service Level:

(A) Commitments Met – Each telecommunications carrier shall meet at least 90 percent of its commitments for services.

(B) Held Orders:

(i) The number of held orders for each telecommunications carrier shall not exceed the greater of two per wire center per month averaged over the telecommunications carrier’s Oregon service territory, or five held orders per 1,000 inward orders.

(ii) The total number of primary held orders in excess of 30 days past the initial commitment date shall not exceed 10 percent of the total monthly held **order standard** within the telecommunications carrier’s Oregon service territory.

(c) Reporting Requirement: Each reporting telecommunications carrier shall report monthly to the Commission the percentage of commitments met for service, total number of held orders, and the total number of primary held orders over 30 days past the initial commitment date.

(d) Retention Requirement: Each reporting telecommunications carrier shall maintain records about held orders for one year. The record shall explain why each order is held and the commitment date.

*Comments and Discussion.* Reporting data about the installation of access line service allows the Commission to evaluate the adequacy of a carrier’s telephone plant facilities and work force, and the carrier’s success at meeting customer expectations. This standard was rewritten and expanded from the version in the current rules. The present rule states that a telecommunications utility shall meet at least 90 percent of commitments for service within five

days. This standard is still acceptable to Staff based on review of Consumer Services complaints.

The present standard requires that if the original commitment date is missed, a carrier is to respond to the customer with a new commitment date in writing within 15 days. Staff reasoned that a customer should not have to wait an additional 15 days before being notified of a new commitment date by the carrier. The proposed standard contains a five-day written notification requirement.

After its March 24 revision, Staff changed the wording in subparagraph (B)(ii) from “orders” to “order standard,” as indicated by the bold typeface above. Staff also made several revisions to its original rule proposal in response to participants’ comments. Staff added language about good faith negotiations for a later date than the five days in the rule and deleted the language concerning facilities based carriers from its originally proposed version of the rule. Staff also standardized the language referring to held orders and deleted the reference to wire centers in subparagraph (a)(B). In response to USWC’s comments, the Commission has added the language “send or otherwise” in the first section of Paragraph 4, to take into account concerns that the mails may not function to deliver the notice within five days. We also moved the phrase “within five days” in the last sentence of the first paragraph, to clarify that the commitment, not the installation, has a five-day limit.

Finally, we changed the five business days proposed in Staff’s rule to six days. Originally the rules had distinguished between facilities based and non-facilities based carriers. Non-facilities based carriers had been given six days in which to fill an order, while facilities based carriers had five days. With the collapse of that distinction, all carriers must respond within the same time frame. We are concerned that if the time frame for meeting a service commitment must include carrier-to-carrier negotiations, five days is not adequate. We have elected to give all carriers six days, as urged by a number of commentors and as set out in the bold text in the rule.

The average number of held access line orders allowed for a carrier remains at two per wire center per month. Carriers argued that the standard is unfair for the larger wire centers that receive large numbers of service requests. We note, however, that the two per wire center is averaged over the carrier’s Oregon service territory. For those carriers that have large quantities of service orders and few wire centers, the proposed optional level of 5 held orders per 1,000 inward orders can be used. This standard is achievable and historically valid.

Previously, both the total number of held orders and the number of held orders over 30 days were reported on an exception basis. The over 30 days held order counts have been further limited to primary or initial access lines. This number has been reported, per the existing rule, but an acceptable level was never established. The proposed rules originally set the standard so that the over 30 day held orders did not exceed 20 percent of the total held

orders. Staff reviewed further information as the rulemaking progressed and now recommends that this level be changed to 10 percent. USWC's matrix, "Service Quality Standards by State," shows eight states that have a tighter standard than 10 percent, with Oklahoma, New Mexico, and West Virginia tolerating no held orders over 30 days.

The reporting requirement was changed to reflect monthly reporting of held order numbers. Monthly reporting allows the Commission to monitor trends and open dialogues with the carrier prior to citing the carrier for a rule violation. Retention of held order records was set at one year.

AARP takes issue with Staff's proposal to lower the held access line order standard from 4 to 5 per 1,000 inward orders. AARP contends that this is a significant service quality concern and is important to older consumers who are dependent on the phone. As competition develops, carriers may sacrifice quality to garner a larger percentage of market share. AARP thinks Commission should leave this standard as is. The standard proposed in Paragraph 4, though lower than the standard in the current rules, is still a high standard; moreover, it takes into account the pressure under which carriers operate in an environment that is rapidly growing because of Internet usage.

AARP requested the Commission to establish a specific time frame within which carriers must fill held orders. Staff resisted this suggestion because Staff felt there were too many variables to set a fixed commitment date for all provisioning. Staff argued, and we agree, that customers should use the Commission complaint process if the carrier does not give a satisfactory explanation of why the carrier missed a commitment date. Moreover, as USWC pointed out, customers buying service, under a tariff and Commission rules, have the option of cellular service for their primary line during the time an order is held.

Here as elsewhere, AARP urges that the Commission impose a retention requirement of three to five years. We believe that such a requirement yields no benefit and imposes substantial costs on carriers. There is no need to retain individual records once the results have gone to the Commission and the Commission has had an opportunity to audit the results.

CenturyTel recommended that we distinguish between rural and nonrural wire centers when calculating held orders. CenturyTel suggested that a rural center be defined as a center with fewer than 2,000 access lines. CenturyTel also recommended that the 30-day held order measurement should apply only to held orders in non-rural wire centers. The Commission is sensitive to the nature of rural wire centers but does not adopt the recommendation for separate held order reporting for rural and nonrural centers. Instead, carriers should provide comments for any monthly deviations considered noteworthy for rural wire centers.

USWC recommended a new method to calculate a carrier's held order level, a standard that would allow two per 10,000 access lines. USWC argued that this would impose similar standards for carriers of similar size. Staff estimates this recommendation would increase the allowed held order level in USWC's case by 70 percent. We find that outcome unacceptable.

We adopt the proposed rule as set out above.

*Paragraph 5, Trouble Report.* The proposed rule reads:

(5) Trouble Report: Each telecommunications carrier shall maintain an accurate record of all reports of malfunction made by its customers.

(a) Measurement: A telecommunications carrier shall determine the number of customer trouble reports that were received during the month. The telecommunications carrier shall relate the count to the total working access lines within a reporting wire center. A carrier need not report those trouble reports that were caused by circumstances beyond its control. The approved trouble report exclusions are:

(A) Cable Cuts: An exclusion may be taken if the "buried cable location" (locate) was either not requested or was requested and was accurate. If a carrier or a carrier's contractor caused the cut, the exclusion can only be used if the locate was accurate and all general industry practices were followed;

(B) Internet Service Provider (ISP) Blockage: If an ISP does not have enough access trunks to handle peak traffic;

(C) Modem Speed Complaints: An exclusion may be taken if the copper cable loop is tested at the subscriber location and the objective service levels in Paragraphs (9)(b)(A), (B) and (C) were met;

(D) No Trouble Found: Where no trouble is found, one exemption may be taken. If a repeat report of the same trouble is received within a 30-day period, it and subsequent reports shall be counted;

(E) New Feature or Service: Trouble reports related to a customer's unfamiliarity with the use or operation of a new (within 30 days) feature or service;

(F) No Access: An exclusion may be taken if a repair appointment was kept and the copper based access line at the nearest accessible terminal met the objective service levels in Paragraphs (9)(b)(A), (B) and (C). If a repeat trouble report is received within the following 30-day period, it and subsequent reports shall be counted;

(G) Subsequent Tickets/Same Trouble/Same Household: Only one trouble report for a specific complaint from the same household shall be counted within a 48-hour period. All repeat trouble reports after the 48-hour period shall be counted;

(H) Non-Regulated and/or Deregulated Equipment: Trouble associated with such equipment shall not be counted;

(I) Trouble with Other Provider: A trouble report caused by another carrier;

(J) Weather: Trouble reports cannot be excluded for normal Oregon weather.

Unusual weather conditions shall be considered on an individual case basis. Trouble reports received for damage caused by lightning strikes can be excluded if all accepted grounding, bonding, and shielding practices were followed by the carrier at the damaged location;

(K) Other exclusions: As approved by the Commission;

(b) Objective Service Level: A telecommunications carrier shall maintain service so that the monthly trouble report rate does not exceed two per 100 working access lines per wire center more than three times during a sliding 12-month period.

(c) Reporting Requirement: Each reporting telecommunications carrier shall report monthly to the Commission the trouble report rate, number of access lines for each wire center, and the specific reason a wire center exceeded a trouble report rate of 3.0 per 100 working access lines.

(d) Retention Requirement: Each reporting telecommunications carrier shall maintain a record of reported trouble in such manner that it can be forwarded to the Commission upon the Commission's request. The telecommunications carrier shall keep all records for a period of one year. The record of reported trouble shall contain as a minimum:

- (A) Telephone number;
- (B) Date and time received;
- (C) Time cleared;
- (D) Type of trouble reported;
- (E) Location of trouble; and
- (F) Whether or not the present trouble was within 30 days of a previous trouble report.

*Comments and Discussion.* In answer to industry complaints that the current and proposed standard is outside the industry norm, Staff compared the current trouble rate standard to standards set by other state regulators. Staff believes that a 2 per 100 line per wire center standard is achievable. Staff reports that other commissions are considering tightening their trouble report rate standard to this level. The Montana Public Service Commission currently has a standard of 6 per 100 (party line customers are considered as having one local access line), but is recommending a change to 2 percent of access lines in an exchange or wire center with party line customers considered to have one line. This standard is much stricter than Staff's proposed 2 per 100. According to Staff, telecommunications utilities, through their reports, have confirmed that the 2.0 rate is achievable. That is also the level to which the 1996 Regional Oversight Committee report agreed. Staff concludes, and we agree, that the existing level is appropriate.

In the current rules, trouble reports are not to be counted if the Commission finds that the trouble was caused by factors beyond the "telecommunications utility's control." That statement has been modified to reflect compliance by all carriers and now states, "the



carrier is not required to count malfunctions caused by conditions beyond its control, as approved by the Commission.”

The NARUC annual convention policy resolution, “Service Quality White Paper,” adopted November 11, 1998, discussed the issue of not counting certain calls to a repair center in the trouble rate. To facilitate benchmarking carrier performance and analysis of service quality data, the Technology Policy Subgroup suggested that telecommunications carriers simply pass along all trouble report data. By excluding the use of exceptions, the Technology Policy Subgroup anticipated that the accuracy of the reported service quality data would increase, while the reporting burden on the carrier would decrease. Staff considered this option but elected to standardize the trouble report rate exclusions instead. We find the proposed method of reporting to be acceptable.

Previously, trouble reporting was based on a 12-month rolling average. This average was adopted to absorb nonstandard spikes in the reported data. A wire center can meet the standard for most individual months but continue to fail the 12-month rolling average standard. Conversely, a wire center could exceed the 2.0 monthly rate for individual months but still meet the 12-month rolling average. Reporting monthly data provides an accurate picture of each wire center for each reporting month.

As a means to temper odd spikes in trouble rates, Staff recommends in its proposed standard that for a wire center to be out of the standard, it must have more than three months above a 2.0 trouble rate in a sliding 12-month period. This method would provide for accurate monitoring and still allow the odd spike.

AT&T requested an explanation of “more than three times during a sliding 12-month period.” A sliding 12-month period refers to “any consecutive 12-month period” over which a wire center trouble report rate result would be analyzed. Every month during that period would have a corresponding trouble report rate. A wire center that exceeds 2.0 for no more than four months out of the selected 12-month period would meet the standard. When a wire center exceeds 2.0 for four or more months out of the selected 12-month period it would fail the standard.

Staff established an additional reporting requirement that carriers must explain why a wire center exceeds a 3.0 trouble report rate. This new requirement lets the Commission monitor trends and be aware of why wire centers are significantly out of standard. If the carrier’s explanation is not sufficient, the Commission could require further investigation to determine the cause for the high trouble report rate. Explanations of those trouble report rates between two and three would be requested by the Commission, if deemed necessary. For example, wire centers that are approaching three or more trouble report rates above 2.0 in a 12-month period could be required to explain why they are experiencing these trouble rates.

Sprint, CenturyTel, USWC, GTE, AT&T, and OTA argue that the proposed standard on trouble reports is too stringent versus current national standards. GTE and AT&T urge the Commission to adopt a trouble report level of 8 per 100 across the board rather than the current and proposed 2.0. As Staff has argued, we believe that the 2.0 rate is achievable and do not believe that we are obligated to accept a lower standard just because other states have lower standards. The same response holds for the argument that we should graduate the trouble report rate according to carrier size.

Sprint contends that from a CLEC perspective, an objective service level of 2 per 100 would be impossible to meet. On Demand Network Service, for instance, is not a mature product, so would be subject to more trouble reports than products that have been on the market long enough to work the problems out. The objective, according to Sprint, should be to ensure that customers have a means of communication via basic dial tone without undue delay. For services with competitive alternatives, providers must maintain service quality levels to meet the marketplace. We note that a carrier may apply for an exclusion for a given service under (5)(a)(K). The Commission is also open to explanations of the reported trouble rates.

AT&T argues that wire center reporting is an historical, ILEC-based concept and that in Paragraph 5(c), the Commission should allow statewide reporting rather than wire center reporting. We respond that we wish to track trouble by geographic area as well as by company, which the wire center requirement allows us to do.

GTE maintains that the one year retention rate is an administrative burden. The rule looks at a sliding 12-month trouble rate, so retention for a year is reasonable.

Finally AT&T asks us to add the following language, in Paragraph 5(d): “Telecommunications carriers that have not previously been required to report such information will only be required to start maintaining records on the effective date of these rules.” We find that this start date for retention is self-evident and need not be expressed in the rule.

We adopt Paragraph 5 as set out above.

*Paragraph 6, Repair Clearing Time.* The proposed rule reads:

(6) Repair Clearing Time: This standard establishes the clearing time for all trouble reports from the time the customer reports the trouble to the telecommunications carrier until the carrier resolves the problem. The telecommunications carrier shall provide each customer making a network trouble report with a commitment time when the telecommunications carrier will repair or resolve the problem.

(a) Measurement: The telecommunications carrier shall calculate the percentage of trouble reports cleared within 48 hours for each repair center;

(b) Objective Service Level: A telecommunications carrier shall monthly clear

at least 95 percent of all trouble reports within 48 hours of receiving a report. This requirement will not apply in situations of natural disasters or other emergencies when approved by the Commission;

(c) Reporting Requirement: Each reporting telecommunications carrier shall report monthly to the Commission the percentage of trouble reports cleared within 48 hours by each repair center;

(d) Retention Requirement: None.

*Comments and Discussion.* Reporting data about the maintenance and repair of access line service allows the Commission to evaluate the adequacy of a carrier's telephone plant facilities and work force, and a carrier's success at providing continual service for its customers. The reporting requirement was expanded from a statewide reported number to a number reported for each repair center. This was requested so that the Commission could monitor service across various areas of Oregon without weighting metropolitan areas over rural areas. The intent of this standard is to determine the minimum repair clearing time for all areas within Oregon, not just larger metropolitan areas. If individual carriers are not able to specify acceptable repair centers, the Commission will assist in the selection process. The rule imposes a monthly reporting period.

Staff's current proposal adopts most of the changes proposed by USWC. AT&T's request to recognize situations of natural disaster or other emergencies was added as a recommended change to subparagraph 6(b), but not as an automatic exclusion. Staff removed the reference to facilities based carriers and made necessary wording changes.

GTE recommends reporting this measurement on a statewide basis rather than for each repair center. GTE argues that the Commission can always request an additional level of detail if it sees a negative trend or expects a problem. GTE also contends that the 95 percent standard is too high, because SB 622 Section 30 requires only a 90 percent clearing rate, and requests quarterly exception reporting for this measurement. We have answered the argument that Section 30 standards must be more stringent than Section 29 standards. We retain the repair center measurement, as we said above, to track the service that all areas of the state are receiving. We adopt this paragraph as set out above.

*Paragraph 7, Blocked Calls.* This paragraph reads, as proposed:

(7) Blocked Calls: A telecommunications carrier shall engineer and maintain all intraoffice, interoffice, and access trunking and associated switching components to allow completion of all dialed calls made during the average busy season busy hour without encountering blocking or equipment irregularities in excess of levels listed in subsection (b) of this section.

(a) Measurement:

(A) The telecommunications carrier shall collect traffic data; that is, peg counts

and usage data generated by individual components of equipment or by the wire center as a whole, and calculate blocking levels of the interoffice final trunk groups;

(B) System blocking will be determined by special testing at the wire center. PUC Staff or a carrier technician will place test calls to a predetermined test number, and the total number of attempted calls and the number of completed calls will be counted. The percent of completion of the calls shall be calculated.

(b) Objective Service Level:

(A) A telecommunications carrier shall maintain interoffice final trunk groups to allow 99 percent completion of all dialed calls during the average busy season busy hour without blocking (P.01 grade of service);

(B) A telecommunications carrier shall maintain its switch operation so that 99 percent of all properly dialed calls shall not experience blocking during any normal busy hour.

(c) Reporting Requirement: Each reporting telecommunications carrier shall report to the Commission if the carrier does not meet the objective service level for final trunk group blocking. The switching system blocking report is required after a Commission-directed switching-system blocking test is completed;

(d) Retention Requirement: Each reporting telecommunications carrier shall maintain records for one year.

*Comments and Discussion.* Staff removed the reference to facilities based carriers and made necessary wording changes in its proposed rule. Staff also rewrote this standard after determining that more detailed information than originally required was necessary to monitor switch blockage. Under the rule as rewritten, system blockage will be determined on a “special request” basis for those wire centers that the Commission suspects of having a switch blockage condition. No routine reporting is required for switching system blocking, but only the results of special testing directed by the Commission. A trigger for an investigation could be customer calls to the Consumer Services Division or unexplained wire center trouble report rates. Reporting for final trunk group blocking is on an exception basis, as in the present rules.

GTE commented that this paragraph should be deleted, because the annual ARMIS report 43-05, Table III, gives the Commission sufficient trunk blocking information. However, blocking has been a major source of customer complaints over the last few years. Each carrier having inter switch trunk groups should be monitoring final trunk group blocking on a monthly basis. An annual report is unacceptable to Staff, and to the Commission.

GTE also argues for a lower standard than the 99 percent completion rate set out in the rule, because Section 30 requires only 98 percent completion. We have answered this argument above. GTE and Teligent also urge the Commission to adopt language excluding from measurement calls blocked due to circumstances beyond the control of the carrier, including natural disasters and emergencies. We believe that because blocked calls are a major area of concern to Oregon customers, all instances of failure to meet the standard should be

reported. A carrier can explain the circumstances that led to blocking, if they were beyond the carrier's control.

We adopt the paragraph as proposed.

*Paragraph 8, Access to Telecommunications Carrier Representatives.* As proposed, this paragraph reads:

(8) Access to Telecommunications Carrier Representatives: This rule sets the allowed time for telecommunications carrier Business Office or Repair Service Center representatives to answer customer calls.

(a) Measurement:

(A) Direct Representative Answering: A telecommunications carrier shall measure the answer time from the first ring at the telecommunications carrier business office or repair service center;

(B) Driven, Automated, or Interactive Answering System: The option of transferring to the telecommunications carrier representative shall be included in the initial local service-screening message. The telecommunications carrier shall measure the answering time from the point a call is directed to its representatives;

(C) Each telecommunications carrier shall calculate, as a monthly percentage of the total calls attempted to the business office and repair service center, the number of calls answered by representatives within 20 seconds;

(b) Objective Service Level: No more than 1 percent of calls to the telecommunications carrier business office or repair service center shall encounter a busy signal. Telecommunications carrier representatives shall answer at least 85 percent of calls within 20 seconds;

(c) Reporting Requirement:

(A) Each telecommunications carrier shall report monthly to the Commission the percentage of calls answered within 20 seconds for both the business office and repair service center;

(B) Each telecommunications carrier shall report monthly to the Commission an exception report if busy signals were encountered in excess of 1 percent for either the Business Office or Repair Service Center.

(d) Retention Requirement: None.

*Comments and Discussion.* The rule allows a carrier to use two types of representative answering, either direct answering by a representative or answering by a driven, automated, or interactive answering system. The rule considers the customer connected to a representative when the customer is able to communicate with a person. The standard makes clear that the point of measurement is when a customer's call is directed to the representative. This comports with the 1996 ROC benchmarks recommendation and with the 1998 NARUC Annual Convention Policy Resolutions: "Average waiting time for all calls answered live, as

measured from the time the customer chooses to talk to a live operator.”

The proposed rule also states that when an answering system is used, the customer is instructed in the first part of the message how to connect to a representative immediately. The toll operator access time standard was deleted, because Staff believed that this feature was subject to competition and is regulated by the carrier providing this service.

AT&T, GTE, Sprint, and USWC commented on this proposed rule. GTE, Sprint, and USWC urged the adoption of an “average speed of answer” (ASA) measurement and propose 60 seconds as the average standard. Staff does not support the ASA measure. Staff believes that the “calls answered within” data are more meaningful and provide a clearer understanding of the percentage of customers that is connected to a representative within a reasonable amount of time. The commentors arguing for ASA note that 15 percent of calls under the proposed system could be of great length. We note that an average speed of answer also leaves the possibility of long wait times for the customer, and that the current rule sets a higher goal for the carrier to meet for greater customer satisfaction.

GTE notes that minimizing service mandates like the answering time requirements will allow the market to determine the minimum standard in the fastest manner and concentrate on those factors considered most important from a customer’s perspective. We disagree. Where a large percentage of Oregon customers still rely on one of the major carriers for their basic service, we must safeguard their interests in the service quality arena.

We adopt the rule as proposed.

*Paragraph 9, Customer Access Line Testing.* The proposed rule reads:

(9) Customer Access Line Testing: All customer access lines shall be designed, installed, and maintained to meet the levels in subsection (b) of this rule.

(a) Measurement: Each telecommunications carrier shall make all loop parameter measurements at the network interface, or as close as access allows;

(b) Objective Service Level: Each access line shall meet the following levels:

(A) Loop Current: The serving wire center loop current, when terminated into a 400-ohm load, shall be at least 20 milliamperes;

(B) Loop Loss: The maximum loop loss, as measured with a 1004-hertz tone from the serving wire center, shall not exceed 8.5 decibels (dB);

(C) Metallic Noise: The maximum metallic noise level, as measured on a quiet line from the serving wire center, shall not exceed 20 decibels above referenced noise level – C message weighting (dBmC);

(D) Power Influence: As a goal, power influence, as measured on a quiet line from the serving wire center, shall not exceed 80 dBmC;

(c) Reporting Requirement: A telecommunications carrier shall report

measurement readings as directed by the Commission;

(d) Retention Requirement: None.

*Comments and Discussion.* The existing loop test standards were readopted in the new rule and placed in a new format. The location of testing was specified at the network interface or as close to the interface as access allowed. Loop testing results were never meant to be reported every time a test is performed, as would be implied by the existing paragraph (11), but to set minimum standards that each reading had to meet. Testing results would be reported when specifically requested by Commission, such as when investigating a complaint received by Consumer Services Division or during an audit of the outside plant.

Staff used the following to consider the proper loop current standard: present industry standard; capability of digital switching equipment; consumer equipment; ability for carriers to place local subscriber pair gain or multiplexing devices in suburban and rural areas; and customer complaints. The existing minimum loop current standard is 20-23 milliamperes (mA). Staff believes that only one number should represent a minimum.

Staff initially selected 23 mA as the minimum loop current standard because of the above considerations and complaints that Consumer Services Division has received that were symptomatic of low loop current: poor voice transmission quality and low volume; ghost rings; wrong numbers; and calls lost during transfer. However, Staff discovered after field testing that the Universal Digital Channel (UDC) pair gain devices used throughout the state are not capable of providing 23 mA. If the required level of 20 mA is acceptable for UDCs, then that level must be acceptable for all loop current levels. Additionally, the Belcore Notes on the Network, Issue 3, December 1997, paragraph 7.15 Loop transmission-design and characterization, states in listed item 2: "All customers receive at least 20 mA of loop current into an assumed station resistance of 430 ohms." Staff therefore changed its minimum loop current recommendation from 23 to 20 mA.

Staff considered adding a maximum loop current standard of 50 mA, but high loop current symptoms (burned out key, PBX, or data equipment; garbled data and modem failures' cut offs and squealing on lines; cross talk, echo, and hollow sounding lines; and numerous intermittent circuit failures) are not currently seen as problems.

The power influence level was established as a goal. The industry accepted level for power influence is less than 80 dBmC. This is the amount of induced harmonic voltage (noise) from an outside source that is on the access line. This reading will usually, but not always, come from power line harmonics. When investigating power influence, longitudinal balance (a computed number derived by subtracting the circuit noise reading from the power

influence) must be calculated. The minimal figure for this balance is 60 dB, with a larger number being better.<sup>3</sup>

In a properly designed wire center, both tip and ring components of the terminating circuits are balanced; that is, resistance, inductance, and capacity to ground are the same and equal. The telecommunications carrier only has control over the balance and must coordinate with the electric company to resolve high power influence levels. The result of a high power influence level is a hum heard by the customer. In extreme cases this hum can make it impossible to communicate. High power influence has been measured within the state, but circuit noise or noise metallic still met the standard. Since a telecommunications carrier does not have full control to fix the problem, this subparagraph is set as a goal, not as a standard. By placing a power influence level in these rules, we give telecommunications carriers support when they are negotiating fixes with electric companies suspected of producing the high harmonic levels.

AT&T commented on hybrid fiber/coaxial (HCF) architecture and the applicability of the customer access line testing. After discussions with AT&T, Staff concluded that it was not necessary to modify the rules to accommodate different types of architecture. We note that if some standards should not be measurable under some technologies, the process set out in Paragraph 13 allows for consideration of alternative means of meeting the standards.

GTE and OTA voiced a concern that the proposed rules were based primarily on copper technology. The Commission does not have authority over wireless based services (unless referenced to the limited use of fixed wireless systems). All measurements are taken at the network interface where, on the customer side, the line is compatible with the customer premises equipment. Staff does acknowledge that some measurements addressed in Paragraph 9 will not be as meaningful for these various architectures as they would be for a pure copper cable based system. All measurements, however, should still meet the recommended standards in order for the customer premises equipment to work properly.

GTE argues that the proposed measurement is an engineering standard that refers to how GTE designs its network and facilities, and should not be part of the rules. We reply as in the paragraph above, that a telecommunications carrier's network must be compatible with the limiting factors of remaining POTS technology and customer premises equipment.

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<sup>3</sup> Staff did not include longitudinal balance in the standard. Staff has experienced areas with low power influence and high, but within standard, metallic noise. This condition yielded longitudinal balance less than 60, but was an acceptable level. Longitudinal balance is a tool for line analysis and, depending on circumstances, could be useful or meaningless. Placing a standard on longitudinal balance would involve an explanation of exceptions beyond the scope of these rules. Since the proposed standard asks for metallic noise and power influence, longitudinal balance could easily be calculated. Metallic noise, power influence, and longitudinal balance are all required to properly characterize an access line.



OTA referred to several organizations that are developing or coordinating on standards for the telecommunications industry. Staff acknowledges that these organizations are accomplishing good work. Staff uses the Bellcore Notes on the Network, Issue 3, December 1997, as its main reference document. The Notes on the Network incorporate the work of many other groups. They refer to Bellcore documents, ANSI documents, ATIS documents, ATM forum, IEEE documents, ISO documents, ITU (CCITT) documents, EIA documents, Frame Relay Forum documents, and miscellaneous other documents. Thus Staff is aware of developments in the field of standards for telecommunications carriers.

We adopt the proposed paragraph as set out above.

*Paragraph 10, Customer Access Lines and Wire Center Switching Equipment.* The proposed rule reads:

(10) Customer Access Lines and Wire Center Switching Equipment: All combinations of access lines and wire center switching equipment shall be capable of accepting and correctly processing at least the following network control signals from the customer premise equipment. The wire center shall provide dial tone and maintain an actual measured loss between interoffice and access trunk groups.

(a) Measurement: Each reporting telecommunications carrier shall make measurements at or to the serving wire center;

(b) Objective Service Level:

(A) Network Control Signals: The network shall be capable of accepting and processing the following control signals: dial pulse of 8 to 12 pulses per second and 58 to 64 percent break; and tone pulsing at 50 milliseconds Dual Tone Multi Frequency (DTMF) on and 50 milliseconds DTMF off;

(B) Dial Tone Speed: Ninety-eight percent of originating average busy hour call attempts shall receive dial tone within three seconds;

(C) A telecommunications carrier shall maintain all interoffice and access trunk groups so that the actual measured loss (AML) in no more than 30 percent of the trunks deviates from the expected measured loss (EML) by more than .7 dB and no more than 4.5 percent of the trunks deviates from EML by more than 1.7 dB.

(c) Reporting Requirement: None;

(d) Retention Requirement: None.

*Comments and Discussion.* (k) *Customer Access Lines and Wire Center switching Equipment, Paragraph 10.* Paragraphs (8)(d) and (9)(b) from the existing rules were combined into the proposed Paragraph 10. The standard remains the same, with only minor wording changes. No reporting requirements are included, but the standards set levels that the telecommunications carrier must meet.

GTE urges that we eliminate this standard because it is not set out in Section 30

of SB 622. Section 30 does not limit our discretion to impose additional service quality standards under Section 29.

We adopt this proposed paragraph as set out above.

*Paragraph 11, Special Service Lines.* This paragraph reads, as proposed:

(11) Special Service Lines: All special service access lines shall meet the performance requirements specified in applicable telecommunications carrier tariffs or contracts.

*Comments and Discussion.* The proposed rule does not change the standard in the current rule, but the words “and contracts” were added to cover carriers that do not submit tariffs. The originally proposed paragraph covering T-1 installations was removed. Staff emphasizes that T-1 provisioning is a high visibility item that will be closely monitored by the Commission. For purposes of these rules, Staff concurs with OTA, Sprint, and USWC that the reference to T-1 service in subparagraph 1(b) be deleted. We adopt this paragraph as proposed.

*Paragraph 12, Telecommunications Carrier Interconnectivity.* The proposed rule reads:

(12) Telecommunications Carrier Interconnectivity: A telecommunications carrier connected to the facilities of another telecommunications carrier shall operate its system in a manner that will not impede either telecommunications carrier’s ability to meet required standards of service. A telecommunications carrier shall report interconnection operational problems promptly to the Commission.

*Comments and Discussion.* This paragraph was expanded to require that no telecommunications carrier shall operate its system in a manner to impede another carrier’s ability to meet the required standards of service. The current rule applies only to a telecommunications utility’s ability to meet the required standards of service. We adopt the rule as proposed.

*Paragraph 13, Alternatives to These Telecommunications Standards.* As proposed, this paragraph reads:

(13) Alternatives to These Telecommunications Standards: A telecommunications carrier whose normal methods of operation do not provide for exact compliance with these rules may file for a variance from or waiver of one or more of these rules if it specifically indicates the alternative standards to be applied or indicates which standards would be waived.

*Comments and Discussion.* This standard was reworded for clarity and expanded to apply to all telecommunications carriers.

CenturyTel requests flexibility in applying alternative standards and reporting requirements. USWC does not object to the notion that other companies may measure in slightly different ways, but urges that such variances must satisfy three criteria. First, the carrier must satisfy minimum service quality standards despite the fact that it may measure and report differently. Second, the measuring and reporting standards must accurately correlate to standards used by other companies. Third, all carriers must have same opportunity to adopt alternative means of measuring and reporting.

The purpose of including a provision such as Paragraph 13 is to allow carriers to reach the same level of service quality via different means. USWC's criteria express our goals as well in permitting alternative means to the same goal. While we decline to formalize these criteria, they express the spirit of this rule.

This section of the rule should address many of the concerns OTA expressed about the cost of complying with the proposed rules. We adopt the paragraph as proposed.

*Paragraph 14, Remedies for Violation of This Standard.* The rule as proposed reads:

(14) Remedies for Violation of this Standard:

(a) If the Commission believes that a telecommunications carrier subject to this rule has violated one or more of its service standards, the Commission shall require the telecommunications carrier to submit a plan for improving performance as provided in SB 622, Section 29(5) [1999 Oregon Laws, chapter 1093]. The Commission may seek penalties against the carrier as provided in Section 29(5);

(b) In addition to the remedy provided under Section 29(5), if the Commission believes that a telecommunications carrier subject to this rule has violated one or more of its service standards, the Commission shall give the telecommunications carrier notice and an opportunity to request a hearing. If the Commission finds a violation has occurred, the Commission may require the telecommunications carrier to provide the following relief to the affected customers:

(A) An alternative means of telecommunications service for violations of section (4)(b)(B) of this standard;

(B) Customer billing credits equal to the associated non-recurring and recurring charges of the telecommunications carrier for the affected service for the period of the violation; and

(C) Other relief authorized by Oregon law.

*Comments and Discussion.* Staff here proposed only minor wording changes to the existing rule. GTE commented that Paragraph 14 did not account for the SB 622, section 29(5) plan. Staff agreed that Paragraph 14 should recognize that the statutory process exists. That change resulted in the addition of subparagraph (a).

GTE argues that Section 29 of SB 622 provides only for financial penalties and gives no authority for the Commission to authorize relief to customers. SB 622 gives the Commission a new power, the power to fine companies. It does not otherwise limit the Commission's existing powers, under which we may provide remedies to customers affected by violations of the standards.

We adopt the rule as proposed.

*Section 15, Exemption from These Rules.* The proposed rule reads:

(15) Exemption from these Rules:

(a) A telecommunications carrier may petition the Commission for an exemption, in whole or in part, from these rules;

(b) The Commission may grant an exemption including, but not limited to, the following circumstance: If the Commission determines that effective competition exists in one or more exchanges, it may exempt all telecommunications carriers providing telecommunications services in those exchanges from the requirements of this rule, in whole or in part. In making this determination, the Commission shall consider:

(A) The extent to which the service is available from alternative providers in the relevant exchange or exchanges;

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

(C) Existing barriers to market entry;

(D) Market share and concentration;

(E) Number of suppliers;

(F) Price to cost ratios;

(G) Demand side substitutability (for example, customer perceptions of competitors as viable alternatives); and

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

**(c) When a telecommunications carrier petitions the Commission for exemption under this provision, the Commission shall provide notice of the petition to all relevant telecommunications carriers providing the applicable service(s) in the exchange(s) in question. Such notified telecommunications carriers will be provided an opportunity to submit comments in response to the petition. The comments may include requests that, following the Commission's analysis outlined above in Section (15)(b)(A)-(H), the commenting**

**telecommunications carrier be exempt from these rules for the applicable service(s) in the relevant exchange(s).**

*Comments and Discussion.* Staff removed references to facilities based carriers and made the necessary wording changes from its original proposal.

The language in Section 15 is not intended to say that the Commission has authority to allow carriers to not meet the service quality standards. Rather, the Commission will not require formal compliance with the standards if we are convinced that all carriers in an exchange are meeting the required standards and that the state of competition is such that service is unlikely to deteriorate. The granting of an exemption is completely discretionary and exemptions need not be permanent.

The purpose of this rule is to permit a lessening of the administrative burden on carriers and the Commission under the circumstances described above. This provision allows the Commission to rely on the regulatory powers of competition, as many commentators urge, rather than regulating service quality directly.

A number of commentators, including GTE, WSCTC, and Teligent, argue that the language of subsection (b) should be “shall exempt” rather than “may exempt.” GTE believes this change makes clear that a successful exemption will apply to all carriers in an exchange. We believe that the wording of the proposed rule is clear that if an exemption is granted it applies to all telecommunications carriers in an exchange. We will leave the rule language discretionary rather than mandatory, to allow us greater flexibility in administering the rule.

Teligent argues that because CLECs and ILECs face asymmetrical pressures, an ILEC should not automatically be exempted from the rules in an exchange where a CLEC might be exempted. We reject this approach because it would create a patchwork of regulated and unregulated companies in an exchange and would be difficult to monitor. Allowing all carriers in an exchange to be exempt from reporting requirements acknowledges that competition is functioning as it should. Until such competition exists, we will recognize the asymmetry of competitive pressures on CLECs by maintaining the requirements of this rule. More importantly, Section 29, requires the Commission’s minimum service quality standards to apply to all telecommunications carriers in a nondiscriminatory fashion.

WSCTC asks us to include subsection (c), set out above in bold type, in Paragraph 15.

According to WSCTC, the addition of subsection (c) is important to ensure that all similarly situated carriers are treated in a fair and nondiscriminatory fashion. To require each carrier to apply or petition individually for exemption could lead to unfair results. Multiple applications would require unnecessary and duplicative analysis. The proposed subsection (c) prevents unfair results that could emerge from situations in which carriers with greater resources are able to apply for multiple exemptions, while smaller carriers would have to limit the number of petitions they could file. In addition, subsection (c) protects all carriers by ensuring that they are provided with proper notice and an adequate opportunity to participate in what would be a comprehensive analysis for a particular service through an identified region.

We agree that WSCTC's proposed subparagraph is reasonable and protects smaller carriers' interests. We adopt the proposed addition, which has been added to Paragraph 15 in bold type. We adopt Paragraph 15 as set out above.

*Paragraph 13 of the existing rules, Installation Agreement.* Staff deleted this paragraph from the proposed rules. It was added three years ago and never used, to Staff's knowledge. We agree that the provision should be deleted.

## **ORDER**

IT IS ORDERED that:

1. The proposed amendments to OAR Chapter 860, Divisions 023 and 034, to adopt rule changes to implement SB 622, Section 29,

Minimum Service Quality Standards for Providing Retail Telecommunications Services, as modified above and as set out in Appendix A to this order and incorporated herein by reference, are adopted.

2. The rules shall become effective on filing with the Secretary of State.

Made, entered, and effective \_\_\_\_\_.

BY THE COMMISSION:

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**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.

**860-023-0055**

**Retail Telecommunications Service Standards**

Every telecommunications ~~utility carrier~~ shall adhere to the following standards:

(1) Definitions.

(a) ~~“Access Line” – Refers to a dial tone line that provides basic exchange services extending from the telecommunications provider’s switching equipment to a point of termination at the premise of the telecommunications provider’s end user customer. A 4 KHz channel with dialing capability that provides local exchange telecommunications service extending from a telecommunications carrier’s switching equipment to a point of termination at the customer’s network interface;~~

(b) ~~“Held Access Line Service orders” – Requests for access line service delayed beyond the commitment date due to lack of facilities. Orders requiring the customer to meet specific reasonable prerequisites (e.g., line extension charges) shall be measured from the time the prerequisites have been met.~~

(c) ~~“Trouble Report” – Means a report of a malfunction on existing lines, circuits, or features made to a Local Exchange Carrier (LEC) by or on behalf of that LEC’s customer in the LEC’s network up to and including the point of demarcation at the customer’s location. Trouble found to be caused by conditions on the customer’s side of the demarcation point, or by a connecting carrier, shall not be counted. Trouble reports shall also not be counted if the Commission finds that the trouble was caused by factors beyond the telecommunications utility’s control.~~

(d) ~~“Wire Center” – Refers to the LEC owned facility wherein the local exchange cables terminate and are accessible for connection to the switching or call processing equipment. Wire centers also have common language codes assigned to them.~~

(2) Provisioning.

(a) ~~At the time a request for access line service is taken, a customer shall be given a committed due date of no more than five business days (unless a later date is mutually agreed to). Access line service is a dial tone line that provides basic exchange services from a telecommunications utility’s switching equipment to a point of termination at the end user’s premise. Access line service installation orders include orders for new or transferred service or additional lines or change orders.~~

(b) ~~A telecommunications utility shall meet at least 90 percent of commitments for service.~~

(c) ~~Held Access Line Service Orders. Once a request for service becomes a held order, commitments to fill the order must be made in writing to the customer within 15 business days.~~

(d) ~~The average number of held access line orders shall not exceed the greater of 2 per wire center per month averaged over the telecommunications utility’s Oregon service territory, or 4 held orders per 1,000 inward orders.~~

(e) ~~A record of why each order is held shall be maintained, together with the commitment date.~~



~~(f) Held orders shall be reported to the Commission upon request, by total number and those held over 30 days past the initial commitment date.~~

~~(3) Access to Telecommunications Utility Representatives.~~

~~(a) Business Office. Eighty five percent of calls to each of a telecommunications utility's business office centers shall be answered within 20 seconds each month.~~

~~(b) Repair Service. Eighty five percent of calls to each of a telecommunications utility's repair service centers shall be answered within 20 seconds each month.~~

~~(c) No more than 1 percent of calls to each business office and to each repair service center shall encounter a busy signal or other busy indication.~~

~~(d) Equivalent measurements to those specified in this paragraph may be used when approved by the Commission.~~

~~(4) Repair Commitment and Restoral Times.~~

~~(a) A telecommunications utility shall clear at least 95 percent of all reports within 48 hours each month.~~

~~(b) A telecommunications utility shall provide each customer making a network trouble report with a commitment time by which the repair will be completed.~~

~~(5) Trouble Reports.~~

~~(a) Each telecommunications utility shall establish and compute an ongoing 12 month rolling average trouble report rate for each wire center or central office for reports of trouble on the utility side of the network interface. "Average Busy Season Busy Hour" – The hour which has the highest average traffic for the three highest months, not necessarily consecutive, in a 12-month period. The busy hour traffic averaged across the busy season is termed the average busy season busy hour traffic;~~

~~(c) "Blocked Call" – A properly dialed call that fails to complete to its intended destination except for a normal busy (60 interruptions per minute);~~

~~(d) "Commitment Date" – A date pledged by the telecommunications carrier to provide a service, facility, or repair action. This date is within the minimum time period set forth in these rules or a date determined by good faith negotiations between the customer and the telecommunications carrier;~~

~~(e) "Customer" – Any person, firm, partnership, corporation, municipality, cooperative, organization, governmental agency, or other legal entity that has applied for, been accepted, and is currently receiving local exchange telecommunications service;~~

~~(f) "Exchange" – Geographic area defined by maps filed with and approved by the Commission for the provision of local exchange telecommunications service;~~

~~(g) "Final Trunk Group" – A last-choice trunk group that receives overflow traffic and which may receive first-route traffic for which there is no alternative route;~~

~~(h) "Held Access Line Service Order" – Request for access line service delayed beyond the commitment date due to lack of facilities. An order requiring the customer to meet specific reasonable prerequisites (for example, line extension charges) shall be measured from the time the prerequisites have been met. An access line service order includes an order for new service, transferred service, additional lines, or change of service;~~

(i) “Network Interface” – The point of interconnection between the telecommunications carrier’s communications facilities and customer terminal equipment, protective apparatus, or wiring at a customer’s premises. The network interface shall be located on the customer’s side of the telecommunications carrier’s protector;

(j) Retail Telecommunications Service” – A telecommunications service provided for a fee to customers. Retail telecommunications service does not include a service provided by one telecommunications carrier to another telecommunications carrier, unless the carrier receiving the service is the end user of the service;

(k) “Tariff” – A schedule showing rates, tolls, and charges that the telecommunications carrier has established for a retail service;

(l) “Telecommunications Carrier” – Any provider of retail telecommunications services, except a call aggregator as defined in ORS 759.690. This rule does not apply to radio communications service, radio paging service, commercial mobile radio service, personal communications service, cellular communications service, or a cooperative corporation organized under ORS Chapter 62 that provides telecommunications services;

(m) “Trouble Report” – A report of a malfunction on existing lines, circuits, or features made up to and including the network interface, to a telecommunications carrier by or on behalf of that telecommunications carrier’s customer;

(n) “Wire Center” – A telecommunications carrier “wire center” is a facility where local telephone subscribers’ access lines converge and are connected to a switching device which provides access to the public switched network, including remote switching units and host switching units. A wire center does not include collocation arrangements in a connecting carrier’s wire center or broadband hubs that have no switching equipment.

(2) Measurement and Reporting Requirement. A telecommunications carrier that maintains 1,000 or more access lines on a statewide basis must take the measurements required by this rule and report them to the Commission as specified. A telecommunications carrier that maintains fewer than 1,000 access lines on a statewide basis need not take the required measurements and file the required reports unless ordered to do so by the Commission.

(3) Additional Reporting Requirements. The Commission may require a telecommunications carrier to provide additional reports on any item covered by this rule.

(4) Provisioning and Held Orders: The representative of the telecommunications carrier shall give a customer a commitment date of not more than six business days after a request for access line service, unless a later date is determined through good faith negotiations between the customer and the telecommunications carrier. Once a request for service becomes a held order, the serving telecommunications carrier must, within five days, send or otherwise provide the customer a written commitment to fill the order.

(a) Measurement:

(A) Commitments Met – A telecommunications carrier shall calculate the monthly percentage of commitments met for service across its Oregon service territory. Commitments missed for reasons attributed to customers or another carrier shall be excluded from the calculation of the “commitments met” results;

(B) Held Orders – A telecommunications carrier shall determine the total monthly number of held orders and the number of primary (initial access line) held orders over 30 days past the initial commitment date.

(b) Objective Service Level:

(A) Commitments Met – Each telecommunications carrier shall meet at least 90 percent of its commitments for service;

(B) Held Orders:

(i) The number of held orders for each telecommunications carrier shall not exceed the greater of two per wire center per month averaged over the telecommunications carrier's Oregon service territory, or five held orders per 1,000 inward orders;

(ii) The total number of primary held orders in excess of 30 days past the initial commitment date shall not exceed 10 percent of the total monthly held orders within the telecommunications carrier's Oregon service territory.

(c) Reporting Requirement: Each reporting telecommunications carrier shall report monthly to the Commission the percentage of commitments met for service, total number of held orders, and the total number of primary held orders over 30 days past the initial commitment date;

(d) Retention Requirement: Each reporting telecommunications carrier shall maintain records about held orders for one year. The record shall explain why each order is held and the commitment date.

(5) Trouble Reports. Each telecommunications carrier shall maintain an accurate record of all reports of malfunction made by its customers.

(a) Measurement: A telecommunications carrier shall determine the number of customer trouble reports that were received during the month. The telecommunications carrier shall relate the count to the total working access lines within a reporting wire center. A carrier need not report those trouble reports that were caused by circumstances beyond its control. The approved trouble report exclusions are:

(A) Cable Cuts: An exclusion may be taken if the "buried cable location" (locate) was either not requested or was requested and was accurate. If a carrier or a carrier's contractor caused the cut, the exclusion can only be used if the locate was accurate and all general industry practices were followed;

(B) Internet Service Provider (ISP) Blockage: If an ISP does not have enough access trunks to handle peak traffic;

(C) Modem Speed Complaints: An exclusion may be taken if the copper cable loop is tested at the subscriber location and the objective service levels in Paragraphs (9)(b)(A), (B), and (C) were met;

(D) No Trouble Found: Where no trouble is found, one exemption may be taken. If a repeat report of the same trouble is received within a 30-day period, it and subsequent reports shall be counted;

(E) New Feature or Service: Trouble reports related to a customer's unfamiliarity with the use or operation of a new (within 30 days) feature or service;

(F) No Access: An exclusion may be taken if a repair appointment was kept and the copper based access line at the nearest accessible terminal met the objective service levels in Paragraphs (9)(b)(A), (B) and (C). If a repeat trouble report is received within the following 30 day period, it and subsequent reports shall be counted;

(G) Subsequent Tickets/Same Trouble/Same Household: Only one trouble report for a specific complaint from the same household shall be counted within a 48-hour period. All repeat trouble reports after the 48-hour period shall be counted;

(H) Non-Regulated and/or Deregulated Equipment: Trouble associated with such equipment shall not be counted;

(I) Trouble with Other Provider: A trouble report caused by another carrier;

(J) Weather: Trouble reports cannot be excluded for normal Oregon weather. Unusual weather conditions shall be considered on an individual case basis. Trouble reports received for damage caused by lightning strikes can be excluded if all accepted grounding, bonding, and shielding practices were followed by the carrier at the damaged location;

(K) Other exclusions: As approved by the Commission.

(b) Objective Service Level: A telecommunications carrier shall maintain service so that the monthly trouble report rate does not exceed two per 100 working access lines per wire center more than three times during a sliding 12-month period;

(c) Reporting Requirement: Each reporting telecommunications carrier shall report monthly to the Commission the trouble report rate by wire center and the specific reason a wire center exceeded a trouble report rate of 3.0 per 100 working access lines;

~~(b) Each telecommunications utility shall maintain a record of reported trouble.~~ (d) Retention Requirement: Each reporting telecommunications carrier shall maintain a record of reported trouble in such manner that it can be forwarded to the Commission upon the Commission's request. The telecommunications carrier shall keep all records for a period of one year. The record of reported trouble shall contain as a minimum:

(A) Telephone number;

(B) Date and time received;

(C) Time cleared;

(D) Type of trouble reported;

(E) Location of trouble; and

(F) Whether or not the present trouble is/was within 30 days of a previous trouble report.

~~(e) Records shall be kept in such condition that they can be forwarded to the Commission immediately upon request. All records shall be kept by wire center for a period of one year.~~

~~(d) Service shall be maintained by the telecommunications utility so that the rolling 12-month average trouble report rate does not exceed 2 per 100 access lines per wire center.~~

~~(6) Dial Tone Speed. Ninety eight percent of originating average busy hour call attempts shall receive dial tone within 3 seconds.~~

~~(7) Toll Operator Answer Time. Ninety percent of toll operator calls shall be answered within 10 seconds (equivalent measuring methods may be used).~~

~~(8) Subscriber Lines.~~

~~(a) All subscriber lines shall be designed, installed, and maintained with the objective of no more than 8.5 dB (decibel) loss at 1004 HZ (Hertz) from the serving central office to the customer premise network interface.~~

~~(b) All subscriber lines shall be designed, installed, and maintained so that metallic noise shall not exceed 20dBRNC (Decibels Above Reference Noise level—C message weighting).~~

~~(c) All subscriber lines shall provide a minimum of 20 to 23 milliamperes of loop current from the central office to the customer network interface when terminated with 400 ohms.~~

~~(d) All combinations of subscriber lines and central office switching equipment shall be capable of accepting and correctly processing at least the following network control signals from customer premise equipment:~~

~~(A) Dial Pulse—8 to 12 pulses per second and 58 to 64 percent break.~~

~~(B) Tone Pulsing—50 milliseconds DTMF (Dual Tone Multi Frequency) on; 50 milliseconds DTMF off.~~

~~(e) Special Service Lines. All special service lines shall meet performance requirements specified in applicable telecommunications utility tariffs.~~

~~(9) Intraoffice, Interoffice, and Access Trunking.~~

~~(a) All intraoffice, interoffice, and access trunking and associated switching components shall be engineered and maintained to allow 99 percent completion of properly dialed calls during the average busy season without encountering blockages or equipment irregularities.~~

~~(b) All interoffice and access trunk groups shall be maintained so that the AML (actual measured loss) in no more than 30 percent of the trunks shall deviate from EML (expected measured loss) by more than .7 dB and no more than 4.5 percent of the trunks shall deviate from EML by more than 1.7 dB.~~

~~(10) Interexchange and Competitive Carriers. All interexchange or competitive carrier facilities interconnected to the facilities of a telecommunications utility shall be operated in a manner which will not impede the telecommunications utility's ability to meet required standards of service. All telecommunications utilities shall report situations contrary to the above promptly to the Commission.~~

~~(11) Reporting Requirements. Telecommunications utilities shall report to the Commission when any of the above standards are not met on a monthly basis.~~

~~(a) The Commission may require after its own investigation that a telecommunications utility provide monthly reports on any or all items covered by this rule.~~

~~(b) Where a telecommunications utility does not measure items covered by these standards on June 30, 1996, it need not begin doing so unless ordered to by the Commission.~~

~~(12) Alternatives to these Telecommunications Standards. Telecommunications utilities whose normal methods of operation do not provide for exact compliance with these rules may:~~

~~(a) File for a variance from, or waiver of, one or more of these rules specifically indicating the alternative standards to be applied or indicating which standards are desired to be waived.~~

~~(b) File a service standards tariff indicating the levels of service that the utility is committed to provide.~~

~~(c) Any variance or tariff must be in substantial compliance with these rules.~~

~~(13) Installation Agreement.~~

~~(a) In lieu of adhering to the service standards set forth in this rule and upon request of a business customer with an order for service, the exchange carrier shall provide a written Installation Agreement which shall include, at a minimum, the following terms:~~

~~(A) An identification and description of the services to be installed;~~

~~(B) The location of the customer's facility;~~

~~(C) The facilities required to service customer;~~

~~(D) The date upon which the requested services shall be installed and operable in accordance with industry specifications and standards ("Installation Date"); and,~~

~~(E) If agreed to by the business customer and exchange carrier, the amount of liquidated damages to be paid to the customer by the exchange carrier in the event the exchange carrier fails to meet the Installation Date in lieu of any other remedies provided herein.~~

~~(b) An exchange carrier's failure to provide service in accordance with the provisions of a written Installation Agreement shall be deemed to be an omission under the exchange carrier's duty to provide adequate service.~~

~~(c) The customer and exchange carrier may negotiate an Installation Agreement that provides for payment of specific liquidated damages by the exchange carrier in lieu of consequential damages to be paid to the customer in the event the exchange carrier fails to provide service in accordance with the terms of the written agreement.~~

~~(14) Remedies for Violation of this Rule. If the Commission believes a company subject to this rule has violated one or more of its service standards, it shall give the company notice and an opportunity to explain the alleged violation(s). If, after hearing the company's explanation, but Commission believes that a violation has occurred, the Commission may require the company to provide the following relief to the affected customers:~~

~~(a) A requirement that the company provide an alternative means of telecommunications service for violations of 2(d).~~

~~(b) Customer billing credits equal to the associated non-recurring and recurring charges of the company for the affected service(s) for the period of the violation(s).~~

(6) Repair Clearing Time: This standard establishes the clearing time for all trouble reports from the time the customer reports the trouble to the telecommunications carrier until the carrier resolves the problem. The telecommunications carrier shall provide each customer making a network trouble report with a commitment time when the telecommunications carrier will repair or resolve the problem.

(a) Measurement: The telecommunications carrier shall calculate the percentage of trouble reports cleared within 48 hours for each repair center;

(b) Objective Service Level: A telecommunications carrier shall monthly clear at least 95 percent of all trouble reports within 48 hours of receiving a report. This requirement will not apply in situations of natural disasters or other emergencies when approved by the Commission;

(c) Reporting Requirement: Each reporting telecommunications carrier shall report monthly to the Commission the percentage of trouble reports cleared within 48 hours by each repair center;

(d) Retention Requirement: None.

(7) Blocked Calls. A telecommunications carrier shall engineer and maintain all intraoffice, interoffice, and access trunking and associated switching components to allow completion of all dialed calls made during the average busy season busy hour without encountering blocking or equipment irregularities in excess of levels listed in subsection (b) of this section.

(a) Measurement:

(A) The telecommunications carrier shall collect traffic data; that is, peg counts and usage data generated by individual components of equipment or by the wire center as a whole, and calculate blocking levels of the interoffice final trunk groups;

(B) System blocking will be determined by special testing at the wire center. PUC Staff or a carrier technician will place test calls to a predetermined test number, and the total number of attempted calls and the number of completed calls will be counted. The percent of completion of the calls shall be calculated.

(b) Objective Service Level:

(A) A telecommunications carrier shall maintain interoffice final trunk groups to allow 99 percent completion of all dialed calls during the average busy season busy hour without blocking (P.01 grade of service);

(B) A telecommunications carrier shall maintain its switch operation so that 99 percent of all properly dialed calls shall not experience blocking during any normal busy hour.

(c) Reporting Requirement: Each reporting telecommunications carrier shall report to the Commission if the carrier does not meet the objective service level for trunk group blocking. The switching system blocking report is required after a Commission- directed switching-system blocking test is completed;

(d) Retention Requirement: Each reporting telecommunications carrier shall maintain records for one year.

(8) Access to Telecommunications Carrier Representatives. This rule sets the allowed time for telecommunications carrier Business Office or Repair Service Center representatives to answer customer calls.

(a) Measurement:

(A) Direct Representative Answering: A telecommunications carrier shall measure the answer time from the first ring at the telecommunications carrier business office or repair service center;

(B) Driven, Automated, or Interactive Answering System: The option of transferring to the telecommunications carrier representative shall be included in the initial local service-screening message. The telecommunications carrier shall measure the answering time from the point a call is directed to its representatives;

(C) Each telecommunications carrier shall calculate, as a monthly percentage of the total calls attempted to the business office and repair service center, the number of calls answered by representatives within 20 seconds.

(b) Objective Service Level: No more than 1 percent of calls to the

telecommunications carrier business office or repair service center shall encounter a busy signal. Telecommunications carrier representatives shall answer at least 85 percent of calls within 20 seconds.

(c) Reporting Requirement:

(A) Each telecommunications carrier shall report monthly to the Commission the percentage of calls answered within 20 seconds for both the business office and repair service center;

(B) Each telecommunications carrier shall report monthly to the Commission an exception report if busy signals were encountered in excess of 1 percent for either the Business Office or Repair Service Center.

(d) Retention Requirement: None.

(9) Customer Access Line Testing: All customer access lines shall be designed, installed, and maintained to meet the levels in subsection (b) of this rule.

(a) Measurement: Each telecommunications carrier shall make all loop parameter measurements at the network interface, or as close as access allows;

(b) Objective Service Level: Each access line shall meet the following levels:

(A) Loop Current: The serving wire center loop current, when terminated into a 400-ohm load, shall be at least 20 milliamperes;

(B) Loop Loss: The maximum loop loss, as measured with a 1004-hertz tone from the serving wire center, shall not exceed 8.5 decibels (dB);

(C) Metallic Noise: The maximum metallic noise level, as measured on a quiet line from the serving wire center, shall not exceed 20 decibels above referenced noise level – C message weighting (dBmC);

(D) Power Influence: As a goal, power influence, as measured on a quiet line from the serving wire center, shall not exceed 80 dBmC.

(c) Reporting Requirement: A telecommunications carrier shall report measurement readings as directed by the Commission;

(d) Retention Requirement: None.

(10) Customer Access Lines and Wire Center Switching Equipment. All combinations of access lines and wire center switching equipment shall be capable of accepting and correctly processing at least the following network control signals from the customer premise equipment. The wire center shall provide dial tone and maintain an actual measured loss between interoffice and access trunk groups.

(a) Measurement: Each reporting telecommunications carrier shall make measurements at or to the serving wire center;

(b) Objective Service Level:

(A) Network Control Signals. The network shall be capable of accepting and processing the following control signals: dial pulse of 8 to 12 pulses per second and 58 to 64 percent break; and tone pulsing at 50 milliseconds Dual Tone Multi Frequency (DTMF) on and 50 milliseconds DTMF off;

(B) Dial Tone Speed. Ninety-eight percent of originating average busy hour call attempts shall receive dial tone within three seconds;



(C) A telecommunications carrier shall maintain all interoffice and access trunk groups so that the actual measured loss (AML) in no more than 30 percent of the trunks deviates from the expected measured loss (EML) by more than .7 dB and no more than 4.5 percent of the trunks deviates from EML by more than 1.7 dB.

(c) Reporting Requirement: None;

(d) Retention Requirement: None.

(11) Special Service Lines. All special service access lines shall meet the performance requirements specified in applicable telecommunications carrier tariffs or contracts.

(12) Telecommunications Carrier Interconnectivity. A telecommunications carrier connected to the facilities of another telecommunications carrier shall operate its system in a manner that will not impede either telecommunications carrier's ability to meet required standards of service. A telecommunications carrier shall report interconnection operational problems promptly to the Commission.

(13) Alternatives to these Telecommunications Standards. A telecommunications carrier whose normal methods of operation do not provide for exact compliance with these rules may file for a variance from, or waiver of, one or more of these rules if it specifically indicates the alternative standards to be applied or indicates which standards would be waived.

(14) Remedies for Violation of this Standard:

(a) If the Commission believes that a telecommunications carrier subject to this rule has violated one or more of its service standards, the Commission shall require the telecommunications carrier to submit a plan for improving performance as provided in ORS 759.450(5) [1999 Oregon Laws Chapter 1093]. The Commission may seek penalties against the carrier as provided in ORS 759.450(5);

(b) In addition to the remedy provided under ORS 759.450(5), if the Commission believes that a telecommunications carrier subject to this rule has violated one or more of its service standards, the Commission shall give the telecommunications carrier notice and an opportunity to request a hearing. If the Commission finds a violation has occurred, the Commission may require the telecommunications carrier to provide the following relief to the affected customers:

(A) An alternative means of telecommunications service for violations of section (4)(b)(B) of this standard;

(B) Customer billing credits equal to the associated non-recurring and recurring charges of the telecommunications carrier for the affected service for the period of the violation; and

(C) Other relief authorized by Oregon law.

(15) Exemption from these rules.

(a) A telecommunications ~~utility~~ carrier may petition the Commission for an exemption from these rules with respect to one or more exemption, in whole or in part, from these rules. ~~telecommunications services offered by the utility.~~

(b) The Commission may grant an exemption including, but not limited to, the following circumstance: If the Commission determines that effective facilities-based competition exists for a service in one or more exchanges, it may exempt the utility from this service quality rule for that service in those exchanges. all telecommunications carriers providing telecommunications

services in those exchanges from the requirements of this rule, in whole or in part. In making this determination, the Commission shall consider:

(A) The extent to which the service is available from alternative providers in the relevant ~~market~~ exchange or exchanges;

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

(C) Existing barriers to market entry;

(D) Market share and concentration;

(E) Number of suppliers;

(F) Price to cost ratios;

(G) Demand side substitutability (~~e.g., for example~~, customer perceptions of competitors as viable alternatives); and

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

(c) When a telecommunications carrier petitions the Commission for exemption under this provision, the Commission shall provide notice of the petition to all relevant telecommunications carriers providing the applicable service(s) in the exchange(s) in question. Such notified telecommunications carriers will be provided an opportunity to submit comments in response to the petition. The comments may include requests that, following the Commission's analysis outlined above in Section (15)(b)(A)-(H), the commenting telecommunications carrier be exempt from these rules for the applicable service(s) in the relevant exchange(s).

[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 & 756

Stats. Implemented: ORS 759.035 & 59.240

Hist.: PUC 164, f. 4-18-74, ef. 5-11-74 (Order 74-307); PUC 23-1985, f. & ef. 12-11-85 (Order No. 85-1171); PUC 1-1997, f. & ef. 1-7-97 (Order No. 96-332)

## **860-034-0390**

### **Utility-Retail Telecommunications Service Standards**

Every telecommunications ~~utility~~ carrier shall adhere to the following standards:

(1) Definitions.

(a) "Access Line" – ~~Refers to a dial tone line that provides basic exchange services extending from the telecommunications provider's switching equipment to a point of termination at the premise of the telecommunications provider's end-user customer. A 4 KHz channel with dialing capability that provides local exchange telecommunications service extending from a telecommunications carrier's switching equipment to a point of termination at the customer's network interface;~~

(b) ~~"Held Access Line Service orders" – Requests for access line service delayed beyond the commitment date due to lack of facilities. Orders requiring the customer to meet~~

specific reasonable prerequisites (e.g., line extension charges) shall be measured from the time the prerequisites have been met.

~~(c) "Trouble Report"—Means a report of a malfunction on existing lines, circuits, or features made to a Local Exchange Carrier (LEC) by or on behalf of that LEC's customer in the LEC's network up to and including the point of demarcation at the customer's location. Trouble found to be caused by conditions on the customer's side of the demarcation point, or by a connecting carrier, shall not be counted. Trouble reports shall also not be counted if the Commission finds that the trouble was caused by factors beyond the telecommunications utility's control.~~

~~(d) "Wire Center"—Refers to the LEC owned facility wherein the local exchange cables terminate and are accessible for connection to the switching or call processing equipment. Wire centers also have common language codes assigned to them.~~

~~(2) Provisioning.~~

~~(a) At the time a request for access line service is taken, a customer shall be given a committed due date of no more than five business days (unless a later date is mutually agreed to). Access line service is a dial tone line that provides basic exchange services from a telecommunications utility's switching equipment to a point of termination at the end user's premise. Access line service installation orders include orders for new or transferred service or additional lines or change orders.~~

~~(b) A telecommunications utility shall meet at least 90 percent of commitments for service.~~

~~(c) Held Access Line Service Orders. Once a request for service becomes a held order, commitments to fill the order must be made in writing to the customer within 15 business days.~~

~~(d) The average number of held access line orders shall not exceed the greater of 2 per wire center per month averaged over the telecommunications utility's Oregon service territory, or 4 held orders per 1,000 inward orders.~~

~~(e) A record of why each order is held shall be maintained, together with the commitment date.~~

~~(f) Held orders shall be reported to the Commission upon request, by total number and those held over 30 days past the initial commitment date.~~

~~(3) Access to Telecommunications Utility Representatives.~~

~~(a) Business Office. Eighty five percent of calls to each of a telecommunications utility's business office centers shall be answered within 20 seconds each month.~~

~~(b) Repair Service. Eighty five percent of calls to each of a telecommunications utility's repair service centers shall be answered within 20 seconds each month.~~

~~(c) No more than 1 percent of calls to each business office and to each repair service center shall encounter a busy signal or other busy indication.~~

~~(d) Equivalent measurements to those specified in this paragraph may be used when approved by the Commission.~~

~~(4) Repair Commitment and Restoral Times.~~

~~(a) A telecommunications utility shall clear at least 95 percent of all reports within 48 hours each month.~~

~~(b) A telecommunications utility shall provide each customer making a network trouble report with a commitment time by which the repair will be completed.~~

~~(5) Trouble Reports.~~

~~(a) Each telecommunications utility shall establish and compute an ongoing 12 month rolling average trouble report rate for each wire center or central office for reports of trouble on the utility side of the network interface. "Average Busy Season Busy Hour" – The hour which has the highest average traffic for the three highest months, not necessarily consecutive, in a 12-month period. The busy hour traffic averaged across the busy season is termed the average busy season busy hour traffic;~~

~~(c) "Blocked Call" – A properly dialed call that fails to complete to its intended destination except for a normal busy (60 interruptions per minute);~~

~~(d) "Commitment Date" – A date pledged by the telecommunications carrier to provide a service, facility, or repair action. This date is within the minimum time period set forth in these rules or a date determined by good faith negotiations between the customer and the telecommunications carrier;~~

~~(e) "Customer" – Any person, firm, partnership, corporation, municipality, cooperative, organization, governmental agency, or other legal entity that has applied for, been accepted, and is currently receiving local exchange telecommunications service;~~

~~(f) "Exchange" – Geographic area defined by maps filed with and approved by the Commission for the provision of local exchange telecommunications service;~~

~~(g) "Final Trunk Group" – A last-choice trunk group that receives overflow traffic and which may receive first-route traffic for which there is no alternative route;~~

~~(h) "Held Access Line Service Order" – Request for access line service delayed beyond the commitment date due to lack of facilities. An order requiring the customer to meet specific reasonable prerequisites (for example, line extension charges) shall be measured from the time the prerequisites have been met. An access line service order includes an order for new service, transferred service, additional lines, or change of service;~~

~~(i) "Network Interface" – The point of interconnection between the telecommunications carrier's communications facilities and customer terminal equipment, protective apparatus, or wiring at a customer's premises. The network interface shall be located on the customer's side of the telecommunications carrier's protector;~~

~~(j) "Retail Telecommunications Service" – A telecommunications service provided for a fee to customers. Retail telecommunications service does not include a service provided by one telecommunications carrier to another telecommunications carrier, unless the carrier receiving the service is the end user of the service;~~

~~(k) "Tariff" – A schedule showing rates, tolls, and charges that the telecommunications carrier has established for a retail service;~~

~~(l) "Telecommunications Carrier" – Any provider of retail telecommunications services, except a call aggregator as defined in ORS 759.690. This rule does not apply to radio communications service, radio paging service, commercial mobile radio service,~~

personal communications service, cellular communications service, or a cooperative corporation organized under ORS Chapter 62 that provides telecommunications services;

(m) “Trouble Report” – A report of a malfunction on existing lines, circuits, or features made up to and including the network interface, to a telecommunications carrier by or on behalf of that telecommunications carrier’s customer;

(n) “Wire Center” – A telecommunications carrier “wire center” is a facility where local telephone subscribers’ access lines converge and are connected to a switching device which provides access to the public switched network, including remote switching units and host switching units. A wire center does not include collocation arrangements in a connecting carrier’s wire center or broadband hubs that have no switching equipment;

(2) Measurement and Reporting Requirement. A telecommunications carrier that maintains 1,000 or more access lines on a statewide basis must take the measurements required by this rule and report them to the Commission as specified. A telecommunications carrier that maintains fewer than 1,000 access lines on a statewide basis need not take the required measurements and file the required reports unless ordered to do so by the Commission.

(3) Additional Reporting Requirements. The Commission may require a telecommunications carrier to provide additional reports on any item covered by this rule.

(4) Provisioning and Held Orders: The representative of the telecommunications carrier shall give a customer a commitment date of not more than six business days after a request for access line service, unless a later date is determined through good faith negotiations between the customer and the telecommunications carrier. Once a request for service becomes a held order, the serving telecommunications carrier must, within five days, send or otherwise provide the customer a written commitment to fill the order.

(a) Measurement:

(A) Commitments Met – A telecommunications carrier shall calculate the monthly percentage of commitments met for service across its Oregon service territory. Commitments missed for reasons attributed to customers or another carrier shall be excluded from the calculation of the “commitments met” results;

(B) Held Orders – A telecommunications carrier shall determine the total monthly number of held orders and the number of primary (initial access line) held orders over 30 days past the initial commitment date.

(b) Objective Service Level:

(A) Commitments Met – Each telecommunications carrier shall meet at least 90 percent of its commitments for service;

(B) Held Orders:

(i) The number of held orders for each telecommunications carrier shall not exceed the greater of two per wire center per month averaged over the telecommunications carrier’s Oregon service territory, or five held orders per 1,000 inward orders;

(ii) The total number of primary held orders in excess of 30 days past the initial commitment date shall not exceed 10 percent of the total monthly held orders within the telecommunications carrier’s Oregon service territory.

(c) Reporting Requirement: Each reporting telecommunications carrier shall report monthly to the Commission the percentage of commitments met for service, total number of held orders, and the total number of primary held orders over 30 days past the initial commitment date;

(d) Retention Requirement: Each reporting telecommunications carrier shall maintain records about held orders for one year. The record shall explain why each order is held and the commitment date.

(5) Trouble Reports. Each telecommunications carrier shall maintain an accurate record of all reports of malfunction made by its customers.

(a) Measurement: A telecommunications carrier shall determine the number of customer trouble reports that were received during the month. The telecommunications carrier shall relate the count to the total working access lines within a reporting wire center. A carrier need not report those trouble reports that were caused by circumstances beyond its control. The approved trouble report exclusions are:

(A) Cable Cuts: An exclusion may be taken if the "buried cable location" (locate) was either not requested or was requested and was accurate. If a carrier or a carrier's contractor caused the cut, the exclusion can only be used if the locate was accurate and all general industry practices were followed;

(B) Internet Service Provider (ISP) Blockage: If an ISP does not have enough access trunks to handle peak traffic;

(C) Modem Speed Complaints: An exclusion may be taken if the copper cable loop is tested at the subscriber location and the objective service levels in Paragraphs (9)(b)(A), (B), and (C) were met;

(D) No Trouble Found: Where no trouble is found, one exemption may be taken. If a repeat report of the same trouble is received within a 30-day period, it and subsequent reports shall be counted;

(E) New Feature or Service: Trouble reports related to a customer's unfamiliarity with the use or operation of a new (within 30 days) feature or service;

(F) No Access: An exclusion may be taken if a repair appointment was kept and the copper based access line at the nearest accessible terminal met the objective service levels in Paragraphs (9)(b)(A), (B), and (C). If a repeat trouble report is received within the following 30-day period, it and subsequent reports shall be counted;

(G) Subsequent Tickets/Same Trouble/Same Household: Only one trouble report for a specific complaint from the same household shall be counted within a 48-hour period. All repeat trouble reports after the 48-hour period shall be counted;

(H) Non-Regulated and/or Deregulated Equipment: Trouble associated with such equipment shall not be counted;

(I) Trouble with Other Provider: A trouble report caused by another carrier;

(J) Weather: Trouble reports cannot be excluded for normal Oregon weather. Unusual weather conditions shall be considered on an individual case basis. Trouble reports received for damage caused by lightning strikes can be excluded if all accepted grounding, bonding, and shielding practices were followed by the carrier at the damaged location;

(K) Other exclusions: As approved by the Commission.

(b) Objective Service Level: A telecommunications carrier shall maintain service so that the monthly trouble report rate does not exceed two per 100 working access lines per wire center more than three times during a sliding 12-month period;

(c) Reporting Requirement: Each reporting telecommunications carrier shall report monthly to the Commission the trouble report rate by wire center and the specific reason a wire center exceeded a trouble report rate of 3.0 per 100 working access lines;

(b) Each telecommunications utility shall maintain a record of reported trouble. (d) Retention Requirement: Each reporting telecommunications carrier shall maintain a record of reported trouble in such manner that it can be forwarded to the Commission upon the Commission's request. The telecommunications carrier shall keep all records for a period of one year. The record of reported trouble shall contain as a minimum:

- (A) Telephone number;
- (B) Date and time received;
- (C) Time cleared;
- (D) Type of trouble reported;
- (E) Location of trouble; and
- (F) Whether or not the present trouble ~~is~~was within 30 days of a previous trouble report.

(e) Records shall be kept in such condition that they can be forwarded to the Commission immediately upon request. All records shall be kept by wire center for a period of one year.

(d) Service shall be maintained by the telecommunications utility so that the rolling 12-month average trouble report rate does not exceed 2 per 100 access lines per wire center.

(6) Dial Tone Speed. Ninety eight percent of originating average busy hour call attempts shall receive dial tone within 3 seconds.

(7) Toll Operator Answer Time. Ninety percent of toll operator calls shall be answered within 10 seconds (equivalent measuring methods may be used).

(8) Subscriber Lines.

(a) All subscriber lines shall be designed, installed, and maintained with the objective of no more than 8.5 dB (decibel) loss at 1004 HZ (Hertz) from the serving central office to the customer premise network interface.

(b) All subscriber lines shall be designed, installed, and maintained so that metallic noise shall not exceed 20dBRNC (Decibels Above Reference Noise level—C message weighting).

(c) All subscriber lines shall provide a minimum of 20 to 23 milliamperes of loop current from the central office to the customer network interface when terminated with 400 ohms.

(d) All combinations of subscriber lines and central office switching equipment shall be capable of accepting and correctly processing at least the following network control signals from customer premise equipment:

(A) Dial Pulse—8 to 12 pulses per second and 58 to 64 percent break.

(B) Tone Pulsing—50 milliseconds DTMF (Dual Tone Multi Frequency) on; 50 milliseconds DTMF off.

~~(e) Special Service Lines. All special service lines shall meet performance requirements specified in applicable telecommunications utility tariffs.~~

~~(9) Intraoffice, Interoffice, and Access Trunking.~~

~~(a) All intraoffice, interoffice, and access trunking and associated switching components shall be engineered and maintained to allow 99 percent completion of properly dialed calls during the average busy season without encountering blockages or equipment irregularities.~~

~~(b) All interoffice and access trunk groups shall be maintained so that the AML (actual measured loss) in no more than 30 percent of the trunks shall deviate from EML (expected measured loss) by more than .7 dB and no more than 4.5 percent of the trunks shall deviate from EML by more than 1.7 dB.~~

~~(10) Interexchange and Competitive Carriers. All interexchange or competitive carrier facilities interconnected to the facilities of a telecommunications utility shall be operated in a manner which will not impede the telecommunications utility's ability to meet required standards of service. All telecommunications utilities shall report situations contrary to the above promptly to the Commission.~~

~~(11) Reporting Requirements. Telecommunications utilities shall report to the Commission when any of the above standards are not met on a monthly basis.~~

~~(a) The Commission may require after its own investigation that a telecommunications utility provide monthly reports on any or all items covered by this rule.~~

~~(b) Where a telecommunications utility does not measure items covered by these standards on June 30, 1996, it need not begin doing so unless ordered to by the Commission.~~

~~(12) Alternatives to these Telecommunications Standards. Telecommunications utilities whose normal methods of operation do not provide for exact compliance with these rules may:~~

~~(a) File for a variance from, or waiver of, one or more of these rules specifically indicating the alternative standards to be applied or indicating which standards are desired to be waived.~~

~~(b) File a service standards tariff indicating the levels of service that the utility is committed to provide.~~

~~(c) Any variance or tariff must be in substantial compliance with these rules.~~

~~(13) Installation Agreement.~~

~~(a) In lieu of adhering to the service standards set forth in this rule and upon request of a business customer with an order for service, the exchange carrier shall provide a written Installation Agreement which shall include, at a minimum, the following terms:~~

~~(A) An identification and description of the services to be installed;~~

~~(B) The location of the customer's facility;~~

~~(C) The facilities required to service customer;~~

~~(D) The date upon which the requested services shall be installed and operable in accordance with industry specifications and standards ("Installation Date"); and,~~

~~(E) If agreed to by the business customer and exchange carrier, the amount of liquidated damages to be paid to the customer by the exchange carrier in the event the exchange carrier fails to meet the Installation Date in lieu of any other remedies provided herein.~~



~~(b) An exchange carrier's failure to provide service in accordance with the provisions of a written Installation Agreement shall be deemed to be an omission under the exchange carrier's duty to provide adequate service.~~

~~(c) The customer and exchange carrier may negotiate an Installation Agreement that provides for payment of specific liquidated damages by the exchange carrier in lieu of consequential damages to be paid to the customer in the event the exchange carrier fails to provide service in accordance with the terms of the written agreement.~~

~~(14) Remedies for Violation of this Rule. If the Commission believes a company subject to this rule has violated one or more of its service standards, it shall give the company notice and an opportunity to explain the alleged violation(s). If, after hearing the company's explanation, but Commission believes that a violation has occurred, the Commission may require the company to provide the following relief to the affected customers:~~

~~(a) A requirement that the company provide an alternative means of telecommunications service for violations of 2(d).~~

~~(b) Customer billing credits equal to the associated non-recurring and recurring charges of the company for the affected service(s) for the period of the violation(s).~~

(6) Repair Clearing Time: This standard establishes the clearing time for all trouble reports from the time the customer reports the trouble to the telecommunications carrier until the carrier resolves the problem. The telecommunications carrier shall provide each customer making a network trouble report with a commitment time when the telecommunications carrier will repair or resolve the problem.

(a) Measurement: The telecommunications carrier shall calculate the percentage of trouble reports cleared within 48 hours for each repair center;

(b) Objective Service Level: A telecommunications carrier shall monthly clear at least 95 percent of all trouble reports within 48 hours of receiving a report. This requirement will not apply in situations of natural disasters or other emergencies when approved by the Commission;

(c) Reporting Requirement: Each reporting telecommunications carrier shall report monthly to the Commission the percentage of trouble reports cleared within 48 hours by each repair center;

(d) Retention Requirement: None.

(7) Blocked Calls. A telecommunications carrier shall engineer and maintain all intraoffice, interoffice, and access trunking and associated switching components to allow completion of all dialed calls made during the average busy season busy hour without encountering blocking or equipment irregularities in excess of levels listed in subsection (b) of this section.

(a) Measurement:

(A) The telecommunications carrier shall collect traffic data; that is, peg counts and usage data generated by individual components of equipment or by the wire center as a whole, and calculate blocking levels of the interoffice final trunk groups;

(B) System blocking will be determined by special testing at the wire center. PUC Staff or a carrier technician will place test calls to a predetermined test number, and the total number

of attempted calls and the number of completed calls will be counted. The percent of completion of the calls shall be calculated.

(b) Objective Service Level:

(A) A telecommunications carrier shall maintain interoffice final trunk groups to allow 99 percent completion of all dialed calls during the average busy season busy hour without blocking (P.01 grade of service);

(B) A telecommunications carrier shall maintain its switch operation so that 99 percent of all properly dialed calls shall not experience blocking during any normal busy hour.

(c) Reporting Requirement: Each reporting telecommunications carrier shall report to the Commission if the carrier does not meet the objective service level for trunk group blocking. The switching system blocking report is required after a Commission- directed switching-system blocking test is completed;

(d) Retention Requirement: Each reporting telecommunications carrier shall maintain records for one year.

(8) Access to Telecommunications Carrier Representatives. This rule sets the allowed time for telecommunications carrier Business Office or Repair Service Center representatives to answer customer calls.

(a) Measurement:

(A) Direct Representative Answering: A telecommunications carrier shall measure the answer time from the first ring at the telecommunications carrier business office or repair service center;

(B) Driven, Automated, or Interactive Answering System: The option of transferring to the telecommunications carrier representative shall be included in the initial local service-screening message. The telecommunications carrier shall measure the answering time from the point a call is directed to its representatives;

(C) Each telecommunications carrier shall calculate, as a monthly percentage of the total calls attempted to the business office and repair service center, the number of calls answered by representatives within 20 seconds.

(b) Objective Service Level: No more than 1 percent of calls to the telecommunications carrier business office or repair service center shall encounter a busy signal. Telecommunications carrier representatives shall answer at least 85 percent of calls within 20 seconds;

(c) Reporting Requirement:

(A) Each telecommunications carrier shall report monthly to the Commission the percentage of calls answered within 20 seconds for both the business office and repair service center;

(B) Each telecommunications carrier shall report monthly to the Commission an exception report if busy signals were encountered in excess of 1 percent for either the Business Office or Repair Service Center.

(d) Retention Requirement: None.

(9) Customer Access Line Testing: All customer access lines shall be designed, installed, and maintained to meet the levels in subsection (b) of this rule.

(a) Measurement: Each telecommunications carrier shall make all loop parameter measurements at the network interface, or as close as access allows;

(b) Objective Service Level: Each access line shall meet the following levels:

(A) Loop Current: The serving wire center loop current, when terminated into a 400-ohm load, shall be at least 20 milliamperes;

(B) Loop Loss: The maximum loop loss, as measured with a 1004-hertz tone from the serving wire center, shall not exceed 8.5 decibels (dB);

(C) Metallic Noise: The maximum metallic noise level, as measured on a quiet line from the serving wire center, shall not exceed 20 decibels above referenced noise level – C message weighting (dBrnC);

(D) Power Influence: As a goal, power influence, as measured on a quiet line from the serving wire center, shall not exceed 80 dBrnC;

(c) Reporting Requirement: A telecommunications carrier shall report measurement readings as directed by the Commission;

(d) Retention Requirement: None.

(10) Customer Access Lines and Wire Center Switching Equipment. All combinations of access lines and wire center switching equipment shall be capable of accepting and correctly processing at least the following network control signals from the customer premise equipment. The wire center shall provide dial tone and maintain an actual measured loss between interoffice and access trunk groups.

(a) Measurement: Each reporting telecommunications carrier shall make measurements at or to the serving wire center;

(b) Objective Service Level:

(A) Network Control Signals. The network shall be capable of accepting and processing the following control signals: dial pulse of 8 to 12 pulses per second and 58 to 64 percent break; and tone pulsing at 50 milliseconds Dual Tone Multi Frequency (DTMF) on and 50 milliseconds DTMF off;

(B) Dial Tone Speed. Ninety-eight percent of originating average busy hour call attempts shall receive dial tone within three seconds;

(C) A telecommunications carrier shall maintain all interoffice and access trunk groups so that the actual measured loss (AML) in no more than 30 percent of the trunks deviate from the expected measured loss (EML) by more than .7 dB and no more than 4.5 percent of the trunks deviates from EML by more than 1.7 dB.

(c) Reporting Requirement: None;

(d) Retention Requirement: None.

(11) Special Service Lines. All special service access lines shall meet the performance requirements specified in applicable telecommunications carrier tariffs or contracts.

(12) Telecommunications Carrier Interconnectivity. A telecommunications carrier connected to the facilities of another telecommunications carrier shall operate its system in a manner that will not impede either telecommunications carrier's ability to meet required standards of service. A telecommunications carrier shall report interconnection operational problems promptly to the Commission.

(13) Alternatives to these Telecommunications Standards. A telecommunications carrier whose normal methods of operation do not provide for exact compliance with these rules may file for a variance from, or waiver of, one or more of these rules if it specifically indicates the alternative standards to be applied or indicates which standards would be waived.

(14) Remedies for Violation of this Standard:

(a) If the Commission believes that a telecommunications carrier subject to this rule has violated one or more of its service standards, the Commission shall require the telecommunications carrier to submit a plan for improving performance as provided in ORS 759.450(5) [1999 Oregon Laws, Chapter 1093]. The Commission may seek penalties against the carrier as provided in ORS 759.450(5);

(b) In addition to the remedy provided under ORS 759.450(5), if the Commission believes that a telecommunications carrier subject to this rule has violated one or more of its service standards, the Commission shall give the telecommunications carrier notice and an opportunity to request a hearing. If the Commission finds a violation has occurred, the Commission may require the telecommunications carrier to provide the following relief to the affected customers:

(A) An alternative means of telecommunications service for violations of section (4)(b)(B) of this standard;

(B) Customer billing credits equal to the associated non-recurring and recurring charges of the telecommunications carrier for the affected service for the period of the violation; and

(C) Other relief authorized by Oregon law.

(15) Exemption from these Rules.

(a) A telecommunications ~~utility~~ carrier may petition the Commission for an ~~exemption from these rules with respect to one or more~~ exemption, in whole or in part, from these rules; ~~telecommunications services offered by the utility.~~

(b) The Commission may grant an exemption including, but not limited to, the following circumstance: If the Commission determines that effective ~~facilities-based~~ competition exists for a service in one or more exchanges, it may exempt ~~the utility from this service quality rule for that service in those exchanges.~~ all telecommunications carriers providing telecommunications services in those exchanges from the requirements of this rule, in whole or in part. In making this determination, the Commission shall consider:

(A) The extent to which the service is available from alternative providers in the relevant ~~market~~ exchange or exchanges;

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

(C) Existing barriers to market entry;

(D) Market share and concentration;

(E) Number of suppliers;

(F) Price to cost ratios;

(G) Demand side substitutability (~~e.g., for example,~~ customer perceptions of competitors as viable alternatives); and

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

(c) When a telecommunications carrier petitions the Commission for exemption under this provision, the Commission shall provide notice of the petition to all relevant telecommunications carriers providing the applicable service(s) in the exchange(s) in question. Such notified telecommunications carriers will be provided an opportunity to submit comments in response to the petition. The comments may include requests that, following the Commission's analysis outlined above in Section (15)(b)(A)-(H), the commenting telecommunications carrier be exempt from these rules for the applicable service(s) in the relevant exchange(s).

[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 & 756

Stats. Implemented: ORS 759.035 & 59.240

Hist.: PUC 164, f. 4-18-74, ef. 5-11-74 (Order 74-307); PUC 23-1985, f. & ef. 12-11-85 (Order No. 85-1171); PUC 1-1997, f. & ef. 1-7-97 (Order No. 96-332)