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BEFORE THE PUBLIC UTILITY COMMISSION
OF OREGON

AR 414

In the Matter of a Rulemaking and Proposal to)
Revise OAR 860-016-0000 and)
OAR 860-016-0020 and add OAR 860-016-0025)
to streamline and clarify procedures governing) **ORDER**
Commission Approval and Acknowledgement of)
Carrier-to-Carrier agreements submitted under the)
Federal Telecommunications Act of 1996.)

DISPOSITION: CORRECT RULES TO BE FILED

At its October 22, 2001 Public Meeting, the Commission adopted the amended rules attached in Appendix A. Due to a clerical error, however, the Commission filed a different version of the rules with the Secretary of State. Accordingly, the attached rules shall be filed with the Secretary of State to correct the earlier filing.

ORDER

IT IS ORDERED that:

1. The modifications to the rules set out in Appendix A, attached to and made part of this order, are adopted.
2. The rules shall become effective upon filing with the Secretary of State.

Made, entered and effective _____.

Roy Hemmingway
Chairman

Lee Beyer
Commissioner

Joan H. Smith
Commissioner

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.

860-016-0000

Definitions

As used in Division 016 of the rules:

(1) "The Act" means the federal Communications Act of 1934, as amended by the Telecommunications Act of 1996.

(2) "Arbitration" means the submission of a dispute for resolution by a neutral third party appointed by the Commission **pursuant to Section 252(b) of the Act.**

(3) "Commission" means the Public Utility Commission **of Oregon.**

(4) "Mediation" means a process in which a neutral third party assists negotiating parties to reach their own solution **pursuant to Section 252(a)(2) of the Act.**

(5) "Petitioner" means a person who has filed a petition for arbitration under the Act.

(6) "Respondent" means the party to a negotiation, which did not make the request for arbitration.

Stat. Auth.: ORS Ch. 756

Stat. Implemented: 47 USC 252

Hist.: PUC 8-1998, f. & cert. ef. 4-8-98 (Order No. 98-132)

860-016-0020

Negotiation and Mediation of Interconnection Agreements Arrived at Through Negotiation

(1) **Upon receiving a request for interconnection, services, or network elements pursuant to Section 251 of the Act, the affected telecommunications carrier may negotiate and enter into a binding agreement with the requesting telecommunications carrier.**

(2) The negotiating parties may ask a mediator outside the Commission to help them reach agreement. If they request the Commission to mediate, the Commission will use an Administrative Law Judge (ALJ) or a member of the utility Staff to mediate. Only the negotiating parties and the mediator will participate in mediation sessions.

(3) After the parties reach agreement **under Section 252(a) of the Act,** they shall file **an application with the Commission seeking approval of the agreement, or for approval of an amendment to an approved agreement on file with the Commission.** **The application shall include an original plus three copies of the negotiated agreement and a completed Carrier-to-Carrier Agreement Checklist. A copy of the checklist is available on the Commission's Internet website. The parties may also include any other supporting information with their application.** ~~**the negotiated interconnection agreement with the Commission. Unless the agreement merely adopts an agreement previously approved by the Commission, the Commission will serve notice of the negotiated agreement on those who have indicated a desire to receive notice of mediated and arbitrated agreements. The public may then file comments within 21 days of service of the notice, unless the Commission establishes a different time limit in an individual case. If the agreement merely adopts an agreement previously approved by the Commission, the Commission will process the agreement on an expedited basis, without serving notice of it.**~~

(4) The negotiating parties shall also submit a copy of the negotiated agreement and a copy of the checklist in electronic format compatible with Adobe Acrobat Reader or Rich Text Format. The electronic copy may be an unsigned version of the negotiated agreement. The Commission will provide notice of the application by posting the checklist and the agreement on its Internet website.

(5) The public may file written comments within 21 days of the filing date of the application, unless the Commission establishes a different time limit in an individual case.

(4)(6) The Commission will accept or reject the agreement within 90 days, with written findings as to any deficiencies. The grounds for rejection are that the agreement:

(a) Discriminates against a carrier not a party to the agreement; or

(b) Is not consistent with the public interest, convenience, and necessity.

Applicable Commission policies will be a factor in public interest, convenience, and necessity **determinations.**

Stat. Auth.: ORS Ch. 756

Stat. Implemented: 47 USC 252

Hist.: PUC 8-1998, f. & cert. ef. 4-8-98 (Order No. 98-132)

860-016-0025

Adoption of Previously Approved Agreement or Statement of Generally Available Terms

(1) If a requesting telecommunications carrier decides to adopt an identical agreement or an identical individual arrangement contained in an agreement, pursuant to Section 252(i) of the Act and 47 CFR Section 51.809, with the exception of the adopting party's name and new effective date, previously approved by and on file with the Commission, or a Statement of Generally Available Terms approved by the Commission under OAR 860-016-0040, it shall file notice of the adoption with the Commission. The notice shall include a completed Carrier-to-Carrier Agreement Checklist.

(2) The requesting carrier shall also submit a copy of the checklist in electronic format compatible with Adobe Acrobat Reader or Rich Text Format. The Commission may provide notice of the adoption by posting the checklist on its Internet website.

(3) If the notice is filed jointly with the affected telecommunications carrier, the adoption shall become effective on the date filed.

(4) If the notice is filed unilaterally by the requesting telecommunications carrier, the requesting telecommunications carrier shall simultaneously provide notice of the adoption to the affected carrier. The affected carrier may then file objections to the adoption within 21 calendar days of such notice. If no objections are filed, the adoption shall become effective on the 22nd day after filing.

(5) An affected carrier may object to an adoption on the following grounds:

(a) The costs of providing a particular interconnection, service, or element to the requesting telecommunications carrier are greater than the costs of providing it to the telecommunications carrier that originally negotiated the agreement;

(b) The provision of a particular interconnection, service, or element to the requesting carrier is not technically feasible;

(c) There is new federal or state law that requires modification of the agreement proposed to be adopted;

(d) The agreement proposed to be adopted has expired or been cancelled; or

(e) The proposed adoption is unlawful.

(6) If the affected carrier files objections, the requesting carrier may file a reply within 14 calendar days after the objections are filed. An assigned Administrative Law Judge (ALJ) shall schedule a conference within five business days after the reply is filed, to be held as soon thereafter as practicable. At the conference, the ALJ shall determine whether the issues raised by the affected carrier's objection can be resolved based on the pleadings and all supporting documentation, or whether further proceedings are necessary. If further proceedings are necessary, the ALJ shall establish a schedule for resolving the dispute on an expedited basis. Pending resolution of the dispute, other provisions of the proposed adoption not contested by the affected carrier will become effective.

Stat. Auth.: ORS Ch. 756

Stat. Implemented: 47 USC 252

Hist.: NEW