

**BEFORE THE PUBLIC UTILITY COMMISSION  
OF OREGON**

AR 646

In the Matter of

RESIDENTIAL SERVICE PROTECTION  
FUND,

Request for Approval to Initiate a Permanent  
Rulemaking for Revisions to OTAP Benefit  
Amount and to Implement Revisions to Rules  
for TDAP.

ORDER

DISPOSITION: STAFF'S RECOMMENDATION ADOPTED

This order memorializes our decision, made and effective at our July 27, 2021 Regular Public Meeting, to adopt Staff's recommendation in this matter. The Staff Report with the recommendation is attached as Appendix A.

Made, entered, and effective Jul 28 2021.



**Megan W. Decker**  
Chair



**Letha Tawney**  
Commissioner



**Mark R. Thompson**  
Commissioner

A party may request rehearing or reconsideration of this order under ORS 756.561. A request for rehearing or reconsideration must be filed with the Commission within 60 days of the date of service of this order. The request must comply with the requirements in OAR 860-001-0720. A copy of the request must also be served on each party to the proceedings as provided in OAR 860-001-0180(2). A party may appeal this order by filing a petition for review with the Circuit Court for Marion County in compliance with ORS 183.484.

ITEM NO. RM2

**PUBLIC UTILITY COMMISSION OF OREGON  
STAFF REPORT  
PUBLIC MEETING DATE: July 27, 2021**

REGULAR \_\_\_ CONSENT \_\_\_ RULEMAKING X EFFECTIVE DATE N/A

**DATE:** July 20, 2021

**TO:** Public Utility Commission

**FROM:** Jon Cray

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

**SUBJECT:** RESIDENTIAL SERVICE PROTECTION FUND:  
(Docket No. AR 646)  
Request for approval to initiate a permanent rulemaking for revisions to OTAP benefit amount and to implement revisions to rules for TDAP.

**STAFF RECOMMENDATION:**

Open a permanent rulemaking docket to consider revisions to the Oregon Telephone Assistance Program (OTAP) benefit amount and to implement revisions to rules for the Telecommunication Devices Access Program (TDAP).

**DISCUSSION:**

Issue

Whether the Public Utility Commission of Oregon (Commission) should open a permanent rulemaking docket to consider revisions to the OTAP benefit amount and to implement revisions to rules for the TDAP.

Applicable Law

Pursuant to ORS 756.060, the Commission “may adopt and amend reasonable and proper rules and regulations relative to all statutes administered by the commission...” The Oregon Administrative Procedures Act, specifically ORS 183.325 to ORS 183.410, sets forth the process for amendment of administrative rules.

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### Analysis

#### *Scope of Rulemaking – Oregon Telephone Assistance Program*

The Oregon Telephone Assistance Program (OTAP) is a plan of assistance to low-income customers established under Sections 2 and 6, chapter 290, Oregon Laws 1987, as amended, to ensure adequate, affordable residential telecommunication service is available to all citizens and to support broadband internet access service. It is the state counterpart to the Federal Communications Commission's (FCC's) Lifeline program, collectively known as Oregon Lifeline. The OTAP currently provides \$7.00<sup>1</sup> of state Lifeline support from the Residential Service Protection Fund (RSPF) per month in addition to the maximum support of \$9.25 available from the federal Universal Service Fund for voice service<sup>2</sup> or broadband internet access service or both.

On June 23, 2021, Oregon Governor Kate Brown signed into law House Bill 5032<sup>3</sup> that comprises the overall Commission's legislatively adopted budget for the 2021-2023 biennium. The legislatively adopted budget included a package, which the Commission originally submitted in its Agency Request Budget, to adjust the OTAP discount from \$3.50 to \$10.00. The proposed rulemaking is an opportunity for the Commission to revise the level of OTAP support to \$10.00.

#### *Telecommunication Devices Access Program*

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

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

The Commission, in Docket No. AR 635, adopted OAR 860-033-0535(1) that allows for the transfer of assistive telecommunication devices and adaptive equipment

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<sup>1</sup> See *In the Matter of Permanent Rulemaking to Address Lifeline Support*, Docket No. AR 635, Order No. 20-492 (December 29, 2020).

<sup>2</sup> See 47 C.F.R. § 54.403(a)(2)(iii). Federal Lifeline support for voice-only service is currently \$5.25 per month effective December 2020.

<sup>3</sup> See Oregon State Legislature; *Oregon Legislative Information; 2021 Regular Session*, <https://olis.oregonlegislature.gov/liz/2021R1/Measures/Overview/HB5032> (last visited July 19, 2021).

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(equipment) ownership to the TDAP recipient four (4) years after the purchase date. However, the current rule does not address transfer of ownership for equipment that the manufacturer has officially discontinued. One of the objectives of the proposed rulemaking is to clarify that equipment officially discontinued becomes property of the TDAP recipient.

Staff anticipates receiving feedback from the public, telecommunications industry, and the OTAP and TDAP advisory committee members. Pending approval to open this rulemaking docket, Staff will schedule a workshop in early August and bring proposed rules for Commission consideration shortly thereafter, in anticipation of a February 1, 2022, effective date for any resulting changes.

### Conclusion

Opening a permanent rulemaking docket in Docket No. AR 646 is necessary to respond to the Commission's 2021 Legislatively Adopted Budget that increased the RSPF expenditure limitation to accommodate a \$10.00 monthly OTAP discount rate. Consideration of an amendment to the administrative rule governing TDAP equipment ownership is also necessary for consistency and efficiency of program administration. Any additional issues identified in the informal process will be addressed when Staff brings proposed rules to the Commission for consideration in issuing a notice of proposed rulemaking.

### **PROPOSED COMMISSION MOTION:**

Open a permanent rulemaking docket for revisions to the OTAP benefit amount and to implement revisions to rules for the TDAP.