

**PUBLIC UTILITY COMMISSION OF OREGON
STAFF REPORT
PUBLIC MEETING DATE: January 7, 2003**

REGULAR _____ **CONSENT** X **EFFECTIVE DATE** _____

DATE: December 30, 2002

TO: John Savage

FROM: Terry Lambeth through Cynthia Van Landuyt, Phil Nyegaard, and Vicki McLean

SUBJECT: AR 455: Initiate a rulemaking to update the rules for collecting PUC fee payments and statements due from telecommunications utilities and competitive providers.

STAFF RECOMMENDATION:

The Commission should open a rulemaking proceeding to revise Oregon Administrative Rules (OARs) 860-021-0036, 860-032-0095, and 860-034-0095; and add OARs 860-021-0037, 860-032-0097, and 860-034-0097 for telecommunications utilities and competitive providers ("PUC fee rules").

Staff's proposal would update the PUC fees rules to address late-filed statements and late payments, improve the Commission's collection and refund processes, and establish parameters for audits and hearings. Staff's revisions would make the PUC fee rules consistent with OARs 860-032-0610 through 860-032-0660 for the Oregon Universal Service Fund ("OUS rules"). The revisions would also make the confidentiality portion of the PUC fee rules consistent with other rules.

Staff expects the changes to aid the Commission in collecting and writing-off overdue PUC fees. While the changes may affect some competitive providers, they should have little or no effect on telecommunications utilities.

DISCUSSION:

The Commission has established PUC fee filing, payment, and penalty¹ requirements for large telecommunications utilities (OAR 860-021-0036), competitive providers

¹ ORS 756.350 states: "Every person who fails to pay any fees provided for in ORS 756.310 or 756.320 after they are due and payable shall, in addition to such fees, pay a penalty of two percent of such fees for each and every month or fraction thereof that they remain unpaid."

(OAR 860-032-0095), small telecommunications utilities (OAR 860-034-0095), and all telecommunications providers (OAR 860-032-0008(2)). These rules do not contain all the collection and audit provisions recently adopted for OUS by Order 02-787 in docket AR 439.

Order 02-787 adopted OARs 860-032-0610 through 860-032-0660, which outline the OUS requirements for the Commission and telecommunications providers. The OUS rules establish filing and payment requirements; impose penalties and interest for failure to file the OUS contribution report or pay the contribution amount; and establish requirements for Commission audits, hearings, and companies' record-keeping.

Attachment A compares the subsections of the new OUS rules with staff's proposed PUC fee rules. Staff proposes to copy the missing sections of the OUS rules into the PUC fee rules. Staff's only changes are to (1) replace OUS terms with PUC fee terms, (2) arrange the subsections to correspond with the existing format of the PUC fee rules, and (3) postpone electronic fund transfers.

As shown in Attachment B, staff would revise OARs 860-021-0036, 860-032-0095, and 860-034-0095 to:

- Clarify that statement forms are due by 5 p.m. on the due date of April 1 [OARs 860-021-0036(1)(b), 860-032-0095(1)(b), and 860-034-0095(1)(b)].
- Clarify that payments are due by 5 p.m. on the due date of April 1 [OARs 860-021-0036(2)(a), 860-032-0095(2)(a), and 860-034-0095(2)(a)].
- Impose a \$100 penalty for failure to pay for statements filed more than five days late [(OARs 860-021-0036(1)(c), 860-032-0095(1)(c), and 860-034-0095(1)(c)].
- Add recovery of collection costs, in compliance with ORS 756.350² [OARs 860-021-0036(2)(d), 860-021-0036(2)(e), 860-032-0095(2)(d), 860-032-0095(2)(e), 860-034-0095(2)(d), and 860-034-0095(2)(e)].
- Require the Commission's audit to begin no later than three years after the statement form's due date [OARs 860-021-0036(5)(a), 860-032-0095(5)(a), and 860-034-0095(5)(a)].

Attachment B also shows that staff would add OARs 860-021-0037, 860-032-0097, and 860-034-0097. These rules would permit the Commission to determine a proposed PUC

² ORS 756.350 states: ". . . If . . . action is necessary to collect any unpaid fees or penalties, the commission shall . . . be entitled to recover all costs and disbursements incurred therein."

fee based upon any information available to the Commission when a telecommunications utility or competitive provider fails to file a statement form or pay its fee. The telecommunications provider would be allowed to contest the assessment.

OAR 860-032-0610(3) lets telecommunications providers use electronic fund transfers to pay their OUS surcharges, because the providers send their revenue reports to the OUS Fund Administrator in advance. Staff's proposal for the PUC fees does not include this provision, because the providers must send their PUC fee revenue reports with their PUC fee payments. According to ORS 756.320: "Payment of each fee or portion thereof shall be accompanied by a statement verified by the public utility or telecommunications provider involved." Thus, the timing does not appear to allow electronic fund transfers. If it is determined that electronic fund transfers can be accommodated, the Commission's rules can be updated later.

In addition, staff proposes to modify OARs 860-021-0036(8), 860-032-0095(6), and 860-034-0095(6) to bring the rules into compliance with other rules for protecting trade secrets.

Staff's proposal will aid the Commission in collecting and writing-off overdue PUC fees and late payment penalties. The changes should have little or no effect on telecommunications utilities, because they usually make timely filings and payments. The changes may affect some competitive providers who are not familiar with Oregon's rules and laws.

Staff is not requesting a hearing because the changes are similar to what Order 02-787 adopted in docket AR 439.

PROPOSED COMMISSION MOTION:

Open a rulemaking proceeding to update the rules for collecting PUC fee payments and statements due from telecommunications utilities and competitive providers.

Attachments

Comparison of Staff's Proposed PUC Fee Rules with OUS Rules

OAR 860-032-0095 corresponds with OARs 860-021-0036 and 860-034-0095 for utilities.
OAR 860-032-0097 corresponds OARs 860-021-0036 and 860-034-0097 for utilities.

OUSF Rules	PUC Fees – Current	PUC Fees – Proposed
General:		
860-032-0610(1)		<i>Note 1</i>
860-032-0610(2)	860-032-0095(1)	860-032-0095(1)
860-032-0610(3)		<i>Note 2</i>
860-032-0610(4)		860-032-0095(2)(d)
860-032-0610(5)		860-032-0095(2)(e)
860-032-0610(6)	860-032-0008(2)	
860-032-0610(7)		860-032-0095(2)(f)
860-032-0610(8)		<i>Note 3</i>
Filing & Payment:		
860-032-0620(1)	860-032-0095(1)	860-032-0095(1)(a), (b)
860-032-0620(2)	860-032-0095(1)	860-032-0095(1)
860-032-0620(3)	860-032-0095(2)	860-032-0095(2)(a)
860-032-0620(4)		<i>Note 4</i>
860-032-0620(5)		860-032-0095(1)(c)
860-032-0620(6)		<i>Note 5</i>
860-032-0620(7)	860-032-0008(1)	860-032-0095(2)(c)
860-032-0620(8)		860-032-0095(2)(b)
Estimated Report:		
860-032-0630(1)		860-032-0097(1)
860-032-0630(2)		860-032-0097(1)(b), (c)
860-032-0630(3)		860-032-0097(1)(b)
860-032-0630(4)		860-032-0097(1)(d)
860-032-0630(5)		860-032-0097(1)(e)
860-032-0630(6)		860-032-0097(4)

Note 1: OUS time provisions do not apply.

Note 2: The electronic fund transfer process is not currently available for the PUC fee.

Note 3: OUS time provisions do not apply.

Note 4: OUS time provisions do not apply.

Note 5: ORS 756.350 requires penalties on late PUC fee payments, whereas OUS late payments are assessed interest and late fees.

OUSF Rules	PUC Fees – Current	PUC Fees – Proposed
Commission Audit & Proposed Assessment:		
860-032-0640(1)		860-032-0095(5)
860-032-0640(2)		860-032-0095(5)(a), (b)
860-032-0640(3)		860-032-0095(5)(c)
860-032-0640(4)		860-032-0095(5)(c)
860-032-0640(5)		860-032-0095(5)(d) – <i>Note 6</i>
Notice & Hearing:		
860-032-0650(1), (2)		860-032-0097(1)(a), (2)
860-032-0650(2)		860-032-0097(2)
860-032-0650(3)		860-032-0097(3)
860-032-0650(4)		860-032-0097(5)
860-032-0650(5)		860-032-0097(6)
Record-keeping:		
860-032-0660(1)		860-032-0095(4)(c) – <i>Note 7</i>
860-032-0660(2)	860-032-0095(4)(c)	860-032-0095(4)(c)
860-032-0660(3)	860-032-0008(2)	860-032-0008(2)

Note 6: OAR 860-032-0640(5) does not apply to OARs 860-021-0036(5) or 860-034-0095(5), because all telecommunications utilities have certificates of authority.

Note 7: The provision to "allow the telecommunications provider a reasonable time to produce the records for inspection or audit" could be added to OARs 860-032-021-0036(7) and 860-034-0095(4). However, staff believes the provision is not necessary for telecommunications utilities, because utilities are subject to considerably more Commission oversight than competitive providers.

860-021-0036

Annual Fees Payable to the Commission by a Large Telecommunications Utility

(1) The Commission shall provide statement forms and each large telecommunications utility shall:

(a) Provide the requested information on the **statement** form for the subject year.

(b) Send its statement form so it is received in the Commission's offices no later than 5 p.m. on the due date.

(c) Pay a late statement fee of \$100, if the large telecommunications utility fails to file a statement form on or before the due date. The Commission shall not impose a late statement fee until a statement form is five business days past due.

(2) Each large telecommunications utility shall pay an annual fee in compliance with OARs 860-011-0020 and 860-011-0023. ~~For payments due on or before April 1, 2000, the annual fee shall be no less than \$10. For payments due on or after April 1, 2001, the annual fee shall be no less than \$100.~~

(a) Each large telecommunications utility shall send its fee payment so it is received in the Commission's offices no later than 5 p.m. on the due date.

(b) If the amount due, as shown on a statement form, is not paid on the due date, the Commission may issue an invoice.

(c) Each fee that is paid late shall bear penalties for failure to pay, as required under ORS 756.350 and OAR 860-032-0008(1).

(d) The Commission may add all costs incurred in collecting a past-due annual fee to the total assessments due. In the event the Commission refers the debt to the Department of Revenue or to a collection agency, the Commission may add to the debt the anticipated amount necessary to generate a net return to the Commission of the amount of the debt.

(e) The Commission shall impose a charge of \$25 for each payment returned for non-sufficient funds.

(f) Except as otherwise provided by law, if after an audit or review the Commission determines that the large telecommunications utility has overpaid its annual fee, the Commission shall provide the utility a refund or credit in that amount against sums subsequently due from the utility.

(3) For retail intrastate service rendered on or after January 1, 2000, a large telecommunications utility must:

(a) Collect the annual fee by charging an equitable amount to each retail customer, using apportionment methods that are consistently applied by the large telecommunications utility throughout Oregon, and

(b) Describe the amount of the apportioned charge upon each retail customer's bill.

(4) If the annual fee charge is embedded in the large telecommunications utility's Commission-approved retail rates, and the utility does not separately charge the customer an additional amount for the apportioned annual fee, then the utility may

comply with subsection (3) of this rule by merely describing the apportioned amount of the charge on the retail customer's bill.

(5) For any year for which a large telecommunications utility's statement form was due, the Commission may audit the utility as the Commission deems necessary and practicable:

(a) The Commission's audit must begin no later than three years after the statement form's due date.

(b) After completion of its audit, the Commission may propose to assess an additional annual fee due from the large telecommunications utility.

(c) Each proposed additional fee shall bear a penalty for failure to pay, as required by ORS 756.350.

(56) If the annual fee charge is embedded in the large telecommunications utility's Commission-approved retail rates, and the utility separately charges the customer an additional amount for the apportioned annual fee, then the utility must comply with ORS 756.310(6)(c).

(67) Each large telecommunications utility shall:

(a) Maintain its records in sufficient detail to readily provide gross retail intrastate revenue from Oregon telecommunications services, as defined in OAR 860-032-0080;

(b) Follow the revenue allocation procedures in OAR 860-032-0090; and

(c) Make its revenue accounting records available to the Commission upon the Commission's request.

(78) If the Commission receives a public record request for the information required in sections (1) and (6) of this rule, the Commission shall assert that, subject to the limitations of the Public Records Law, the materials are trade secrets and, therefore, exempt from disclosure. The material shall be marked "EXEMPT FROM PUBLIC DISCLOSURE AS TRADE SECRETS."

(89) Subject to the applicable requirements of the Public Records Law or ORS 759.060, ~~access to this material shall be limited to Commissioners, their Counsel, and Commission employees.~~ The materials shall be segregated and maintained in a locked file.

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

Stats. Implemented: ORS 756.310, ~~& 756.320~~ **& 756.350**

Hist.: PUC 13-1999, f. & ef. 12-7-99 (Order 99-734); PUC 16-2001, f. & cert. ef. 6-21-01 (Order No. 01-488)

860-021-0037

Estimated Annual Fees Payable to the Commission

(1) For any year for which a large telecommunications utility fails to file a statement form, the Commission may determine a proposed annual fee based upon any information available to the Commission:

(a) The Commission shall provide written notice of the proposed assessment to the large telecommunications utility and allow the utility an opportunity to request a hearing before the Commission.

(b) The proposed assessment shall include a penalty for failure to pay as required by ORS 756.350.

(c) The large telecommunications shall be assessed a late statement fee of \$100.

(d) The Commission's proposed assessment for a non-filed statement form must be made no later than three (3) years after the statement form's due date.

(2) Within 30 days after service of the notice of proposed assessment, a large telecommunications utility may petition the Commission in writing for a hearing. If the utility does not file a petition within the 30-day period, the Commission shall enter a final fee based upon information in the Commission's files. If a petition is filed within the 30-day period, the Commission shall grant the utility a hearing and give the utility at least 10 days notice of the time and place of the hearing.

(3) The large telecommunications utility must specify in its petition all reasons it disputes the proposed assessment. The Commission shall conduct a hearing on the utility's petition under its rules governing hearings and proceedings. Unless the utility has filed an amended statement form, the Commission's proposed assessment shall not be subject to challenge by the utility.

(4) Prior to the expiration of the period allowed for filing a petition for a hearing, the large telecommunications utility may file its statement form and pay the annual fee, penalties, and late statement fees. The Commission shall accept the statement form, fees, and penalties in accordance with the original due date for that year's statement form and payment.

(5) A Commission order deciding the petition shall become final after service of the Commission's order upon the petitioning large telecommunications utility.

(6) The proposed assessment and penalty made by the Commission under this rule are due and payable on the 10th day after the Commission's order becomes final.

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

Stats. Implemented: ORS 756.040, 756.310, 756.320 & 756.350

Hist.: NEW

860-032-0095

Annual Fees Payable to the Commission by a Competitive Provider

(1) The Commission shall provide statement forms and each competitive provider shall:

(a) Provide the requested information on the **statement** form for the subject year.

(b) **Send its statement form so it is received in the Commission's offices no later than 5 p.m. on the due date.**

(c) **Pay a late statement fee of \$100, if the competitive provider fails to file a statement form on or before the due date. The Commission shall not impose a late statement fee until a statement form is five business days past due.**

(2) Each competitive provider, which holds an Oregon certificate at any time during the subject year, shall pay an annual fee in compliance with OARs 860-011-0020 and 860-011-0023. The annual fee shall be no less than \$100.:

(a) **Each competitive provider shall send its fee payment so it is received in the Commission's offices no later than 5 p.m. on the due date.**

(b) **If the amount due, as shown on a statement form, is not paid on the due date, the Commission may issue an invoice.**

(c) **Each fee that is paid late shall bear penalties for failure to pay, as required under ORS 756.350 and OAR 860-032-0008(1).**

(d) **The Commission may add all costs incurred in collecting a past-due annual fee to the total assessments due. In the event the Commission refers the debt to the Department of Revenue or to a collection agency, the Commission may add to the debt the anticipated amount necessary to generate a net return to the Commission of the amount of the debt.**

(e) **The Commission shall impose a charge of \$25 for each payment returned for non-sufficient funds.**

(f) **Except as otherwise provided by law, if after an audit or review the Commission determines that the competitive provider has overpaid its annual fee, the Commission shall provide the competitive provider a refund or credit in that amount against sums subsequently due from the competitive provider.**

(3) For retail intrastate service rendered on or after January 1, 2000, a competitive provider must:

(a) Collect the annual fee by charging an equitable amount to each retail customer, using apportionment methods that are consistently applied by the utility through Oregon, and

(b) Describe the amount of the apportioned charge upon each retail customer's bill.

(4) Each competitive provider shall:

(a) Maintain its records in sufficient detail to readily provide gross retail intrastate revenue from Oregon telecommunications services, as defined in OAR 860-032-0080;

(b) Follow the revenue allocation procedures in OAR 860-032-0090; and

(c) Make its revenue accounting records available to the Commission upon the Commission's request. **The Commission, or its representative, shall allow the competitive provider a reasonable time to produce the records for inspection or audit. A competitive provider must keep all records supporting each statement form for three years, or until a Commission review or audit is complete, whichever is later.**

(5) For any year for which a competitive provider's statement form was due, the Commission may audit the competitive provider as the Commission deems necessary and practicable:

(a) The Commission's audit must begin no later than three years after the statement form's due date.

(b) After completion of its audit, the Commission may propose to assess an additional annual fee due from the competitive provider.

(c) Each proposed additional fee shall bear a penalty for failure to pay, as required by ORS 756.350.

(d) Notwithstanding subsection (5)(a) of this rule, if the competitive provider did not hold a certificate of authority, the Commission shall have an unlimited time to audit the competitive provider for the annual fee.

(56) If the Commission receives a public record request for the information required in sections (1) and (4) of this rule, the Commission shall assert that, subject to the limitations of the Public Records Law, the materials are trade secrets and, therefore, exempt from disclosure. The material shall be marked "EXEMPT FROM PUBLIC DISCLOSURE AS TRADE SECRETS."

(67) Subject to the applicable requirements of the Public Records Law or ORS 759.060, ~~access to this material shall be limited to Commissioners, their Counsel, and Commission employees.~~ The materials shall be segregated and maintained in a locked file.

(78) A cooperative that is a competitive provider shall pay an annual fee only on the gross retail intrastate revenue from telecommunications services that are provided under the cooperative's ORS 759.020 certificate of authority. A cooperative shall not pay an annual fee on revenue from telecommunications services that are provided under the cooperative's ORS 759.025 certificate of authority.

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

Stats. Implemented: ORS 756.310, ~~&~~-756.320 **& 756.350**

Hist.: PUC 13-1999, f. & ef. 12-7-99 (Order 99-734)

860-032-0097

Estimated Annual Fees Payable to the Commission

(1) For any year for which a competitive provider fails to file a statement form, the Commission may determine a proposed annual fee based upon any information available to the Commission:

(a) The Commission shall provide written notice of the proposed assessment to the competitive provider and allow the competitive provider an opportunity to request a hearing before the Commission.

(b) The proposed assessment shall include a penalty for failure to pay as required by ORS 756.350.

(c) The competitive provider shall be assessed a late statement fee of \$100.

(d) The Commission's proposed assessment for a non-filed statement form must be made no later than three (3) years after the statement form's due date.

(e) Notwithstanding subsection (1)(d) of this rule, if the competitive provider did not hold a certificate of authority, the Commission shall have an unlimited time to propose a fee for the time period represented by the non-filed statement form. The proposed assessment shall include penalties for failure to pay.

(2) Within 30 days after service of the notice of proposed assessment, a competitive provider may petition the Commission in writing for a hearing. If the competitive provider does not file a petition within the 30-day period, the Commission shall enter a final fee based upon information in the Commission's files. If a petition is filed within the 30-day period, the Commission shall grant the competitive provider a hearing and give the competitive provider at least 10 days notice of the time and place of the hearing.

(3) The competitive provider must specify in its petition all reasons it disputes the proposed assessment. The Commission shall conduct a hearing on the competitive provider's petition under its rules governing hearings and proceedings. Unless the competitive provider has filed an amended statement form, the Commission's proposed assessment shall not be subject to challenge by the competitive provider.

(4) Prior to the expiration of the period allowed for filing a petition for a hearing, the competitive provider may file its statement form and pay the annual fee, penalties, and late statement fees. The Commission shall accept the statement form, fees, and penalties in accordance with the original due date for that year's statement form and payment.

(5) A Commission order deciding the petition shall become final after service of the Commission's order upon the petitioning competitive provider.

(6) The proposed assessment and penalty made by the Commission under this rule are due and payable on the 10th day after the Commission's order becomes final.

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

Stats. Implemented: ORS 756.040, 756.310, 756.320 & 756.350

Hist.: NEW

860-034-0095

Annual Fees Payable to the Commission by a Small Telecommunications Utility

(1) The Commission shall provide statement forms and each small telecommunications utility shall:

(a) Provide the requested information on the **statement** form for the subject year.

(b) Send its statement form so it is received in the Commission's offices no later than 5 p.m. on the due date.

(c) Pay a late statement fee of \$100, if the small telecommunications utility fails to file a statement form on or before the due date. The Commission shall not impose a late statement fee until a statement form is five business days past due.

(2) Each small telecommunications utility shall pay an annual fee in compliance with OARs 860-011-0020 and 860-011-0023. ~~For payments due on or before April 1, 2000, the annual fee shall be no less than \$10. For payments due on or after April 1, 2001, the annual fee shall be no less than \$100.~~

(a) Each small telecommunications utility shall send its fee payment so it is received in the Commission's offices no later than 5 p.m. on the due date.

(b) If the amount due, as shown on a statement form, is not paid on the due date, the Commission may issue an invoice.

(c) Each fee that is paid late shall bear penalties for failure to pay, as required under ORS 756.350 and OAR 860-032-0008(1).

(d) The Commission may add all costs incurred in collecting a past-due annual fee to the total assessments due. In the event the Commission refers the debt to the Department of Revenue or to a collection agency, the Commission may add to the debt the anticipated amount necessary to generate a net return to the Commission of the amount of the debt.

(e) The Commission shall impose a charge of \$25 for each payment returned for non-sufficient funds.

(f) Except as otherwise provided by law, if after an audit or review the Commission determines that the small telecommunications utility has overpaid its annual fee, the Commission shall provide the utility a refund or credit in that amount against sums subsequently due from the utility.

(3) For retail intrastate service rendered on or after January 1, 2000, a small telecommunications utility must:

(a) Collect the annual fee by charging an equitable amount to each retail customer, using apportionment methods that are consistently applied by the small telecommunications utility throughout Oregon; and

(b) Describe the amount of the apportioned charge upon each retail customer's bill.

(4) Each small telecommunications utility shall:

(a) Maintain its records in sufficient detail to readily provide gross retail intrastate revenue from Oregon telecommunications services, as defined in OAR 860-032-0080;

(b) Follow the revenue allocation procedures in OAR 860-032-0090; and

(c) Make its revenue accounting records available to the Commission upon the Commission's request.

(5) For any year for which a small telecommunications utility's statement form was due, the Commission may audit the utility as the Commission deems necessary and practicable:

(a) The Commission's audit must begin no later than three years after the statement form's due date.

(b) After completion of its audit, the Commission may propose to assess an additional annual fee due from the small telecommunications utility.

(c) Each proposed additional fee shall bear a penalty for failure to pay, as required by ORS 756.350.

(56) If the Commission receives a public record request for the information required in sections (1) and (4) of this rule, the Commission shall assert that, subject to the limitations of the Public Records Law, the materials are trade secrets and, therefore, exempt from disclosure. The material shall be marked "EXEMPT FROM PUBLIC DISCLOSURE AS TRADE SECRETS."

(67) Subject to the applicable requirements of the Public Records Law or ORS 759.060, ~~access to this material shall be limited to Commissioners, their Counsel, and Commission employees.~~ The materials shall be segregated and maintained in a locked file.

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

Stats. Implemented: ORS 756.310, ~~& 756.320~~ & 756.350

Hist.: PUC 13-1999, f. & ef. 12-7-99 (Order 99-734); PUC 15-2001, f. & cert. ef. 6-21-01 (Order No. 01-488)

860-034-0097

Estimated Annual Fees Payable to the Commission

(1) For any year for which a small telecommunications utility fails to file a statement form, the Commission may determine a proposed annual fee based upon any information available to the Commission:

(a) The Commission shall provide written notice of the proposed assessment to the small telecommunications utility and allow the utility an opportunity to request a hearing before the Commission.

(b) The proposed assessment shall include a penalty for failure to pay as required by ORS 756.350.

(c) The large telecommunications shall be assessed a late statement fee of \$100.

(d) The Commission's proposed assessment for a non-filed statement form must be made no later than three (3) years after the statement form's due date.

(2) Within 30 days after service of the notice of proposed assessment, a small telecommunications utility may petition the Commission in writing for a hearing. If the utility does not file a petition within the 30-day period, the Commission shall enter a final fee based upon information in the Commission's files. If a petition is filed within the 30-day period, the Commission shall grant the utility a hearing and give the utility at least 10 days notice of the time and place of the hearing.

(3) The small telecommunications utility must specify in its petition all reasons it disputes the proposed assessment. The Commission shall conduct a hearing on the utility's petition under its rules governing hearings and proceedings. Unless the utility has filed an amended statement form, the Commission's proposed assessment shall not be subject to challenge by the utility.

(4) Prior to the expiration of the period allowed for filing a petition for a hearing, the small telecommunications utility may file its statement form and pay the annual fee, penalties, and late statement fees. The Commission shall accept the statement form, fees, and penalties in accordance with the original due date for that year's statement form and payment.

(5) A Commission order deciding the petition shall become final after service of the Commission's order upon the petitioning small telecommunications utility.

(6) The proposed assessment and penalty made by the Commission under this rule are due and payable on the 10th day after the Commission's order becomes final.

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

Stats. Implemented: ORS 756.040, 756.310, 756.320 & 756.350

Hist.: NEW