

**PUBLIC UTILITY COMMISSION OF OREGON  
STAFF REPORT  
PUBLIC MEETING DATE: July 15, 2003**

**REGULAR**  **CONSENT**  **EFFECTIVE DATE** \_\_\_\_\_ **NA** \_\_\_\_\_

**DATE:** June 25, 2003

**TO:** Roy Hemmingway, Chair  
Lee Beyer, Commissioner

**Through:** Rick Willis, Executive Director  
Vicki McLean, CSD Administrator  
Terry Lambeth, Rules Project Team Leader

**FROM:** Damara Paris, RSPF Manager

**SUBJECT:** **AR 448: Initiate a rulemaking to revise** Oregon Administrative Rule Division 033 to update terminology, clarify OTAP eligibility and equipment liability for TDAP recipients, and to adopt rules regarding RSPF surcharge remittance reports and fees timelines.

**STAFF RECOMMENDATION:**

Staff proposes that the Commission open a rulemaking docket to change OARs 860-033-0005 through 860-033-0545. The changes would be primarily housekeeping to update the terms in Division 033 to be consistent with the language in similar program rules already approved for the Oregon Universal Service Fund (USF). These changes would also match Federal mandates for Lifeline and Title IV of the Americans with Disabilities Act. The attached proposal would also adopt language similar to the Oregon USF regarding billing and report procedures and penalties for failure to report or submit surcharge remittance, and clarifies Oregon Telephone Assistance Program (OTAP) and Telecommunication Devices Access Program (TDAP) procedures.

**DISCUSSION:**

Other than general housekeeping changes to make the terms consistent with other Oregon Administrative Rules as well as Federal mandates, changes were made to the RSPF rules to clarify program procedures for OTAP and TDAP, and to clarify billing and report procedures for collecting and remitting the RSPF surcharge. Each rule is discussed below.

860-033-0005: Changes made within this rule include the definition of basic telephone service with a reference to OAR 860-032-0190(2). This clarifies what services can be included for OTAP recipients. In addition, monthly and quarterly billing periods and reports are defined for the purpose of submitting RSPF surcharge remittance and OTAP reimbursement to the telephone companies. This clarification helps ensure that surcharge remittance and OTAP billings are consistent and timely.

860-033-0006 through 860-033-0009: These new rules would outline expectations for remitting reports and surcharge revenue. These rules also address when the Commission may impose a penalty for late fee for report submission, and outline procedures for telecommunication providers to request a hearing on any proposed order or assessment. This language is also found in the Oregon USF rules.

860-033-0030: The amendments to this rule clarify that OTAP recipients may sign a written authorization to release information to providers, the Department of Human services, and the applicants representative or legal guardian. The amended rule would allow OTAP recipients to be the named subscriber to the local telecommunication service by allowing the Commission to waive this requirement if just cause arises. An amendment was also made to clarify that OTAP recipients who were approved by the Commission, yet did not receive their benefits from the telecommunication providers may retroactively receive benefits up to one year from the date they were approved.

860-033-0045: The amendments for this rule primarily are housekeeping in nature and replace the term "carrier" with "provider." In addition, the rule clarifies that telecommunication carriers cannot authorize OTAP benefits, or distribute educational materials at the Commission's expense, without Commission approval. By amending this rule, the Commission may prevent potential excessive cost of providing benefits to recipients who do not qualify for services.

860-033-0050: Link-Up America Eligibility for Low Income Energy Assistance Program (LIEAP) recipients is clarified, and recipients will be required to provide documentation to the Commission regarding their participation in the LIEAP program. In addition, the Commission requires Link-Up America applications to be submitted to the RSPF staff, who will approve and forward the application to telecommunication providers. This amendment will allow the Commission to reduce the possibility of approving the discount for a consumer who does not qualify for Link-Up assistance.

860-033-050 through 860-033-0530: These amendments clarify what disabilities qualify for the equipment loan assistance and clarifies eligibility procedures for determining Oregon residency as well as which agencies can certify that the consumer qualifies for TDAP services. One important addition allows a recipient to try out new equipment on a

temporary basis while keeping their originally loaned equipment until they are able to determine which equipment would be most suitable for their access to telecommunication services.

860-033-0535: The amendment to this rule defines the length of time that a TDAP consumer must notify the Commission that they have moved. The amendment also defines acts of nature or disasters, and specifies which reports need to be filed in the event that the consumer's equipment has been destroyed by acts of nature or disasters. Prior to this amendment, the rule only addressed stolen equipment.

860-033-0536: This amendment clarifies that the TDAP recipient is liable for all damages not caused by normal wear and tear or acts of nature or disasters. The revision also clarifies in order to avoid financial responsibility of repairing or replacing equipment that the burden of proof lies with the recipient to prove the damage was caused by normal wear and tear or acts of nature or disasters.

860-033-0537: This amendment adds procedures for addressing the return of equipment for deceased recipients by allowing the Commission to bill the recipients' estates for equipment that has not been returned or returned damaged.

860-033-0540: This amendment removes the section on "distribution center" since PUC no longer contracts with a distribution center in Portland, and it adds that the recipient is responsible for the costs of batteries for their telecommunication assistance equipment.

All proposed rule changes were discussed with the Telecommunication Devices Access Program Advisory Committee (TDAPAC). The OTRS Industry Group. Oregon Telephone Association (OTA) also distributed drafts of the proposed rules to several telecommunications providers for their input. All parties appear to support the attached amendments.

**PROPOSED COMMISSION MOTION:**

Docket AR 448 be opened to consider revisions to OARs 860-033-0005 through 860-033-0545.

Attachment

**860-033-0005**

**OTAP Residential Service Protection Fund Definitions**

For the purpose of this division:

**(1) "Basic Service" means "basic telephone service" as defined in OAR 860-032-0190 (2). For qualifying low-income recipients, basic service also includes access to toll-limitation services.**

~~(7)~~ **"Eligible Telecommunications Carrier- Provider"** means a provider of telecommunications service, designated as such by the Commission to receive universal service support throughout the service area for which the designation is received, who meets the following criteria:

(a) The telecommunications ~~service~~ provider must offer the services supported by the federal universal service fund under 47 CFR Section 54.101 as adopted by the FCC on May 8, 1997, in CC Docket 96-45, either using its own facilities or a combination of its own facilities and resale of another carrier's services (including the services offered by another eligible telecommunications carrier) throughout the service area; and

(b) The telecommunications ~~service~~ provider must advertise the availability of such services and the charges ~~therefore~~ **thereof** using a medium of general distribution.

~~(8c)~~ A cellular, wireless, or other radio common carrier is eligible for designation as an "eligible telecommunications ~~carrier~~ **provider**" for purposes of the Residential Service Protection **Fund** program.

(3) "Local Exchange Service" means a "local exchange telecommunications service" as defined in ORS 759.005(1)(c).

**(4) "Monthly Billing" means the billing period between the first day and last day of a calendar month.**

~~(4)~~ ~~(5)~~ "Oregon Telephone Assistance Program (OTAP)" means a program established by the Commission ~~which~~ **that** offers reduced local exchange rates to eligible low-income residential customers.

(6) "Outstanding Accounts" means amounts owing to the Commission including, but not limited to, current accounts receivable and accounts, which the Commission has written off through appropriate legal procedures. The term does not include amounts owing to the Commission, which have been lawfully discharged through bankruptcy proceedings or amounts ~~which~~ **that** are the subject of a proceeding pending before the Commission.

**(7) "Quarterly Billing" means the billing periods for the four quarters in each calendar year, which are January 1 through March 31, April 1 through June 30, July 1 through September 30, and October 1 through December 31.**

~~(18)~~ "Residential Service Protection Fund (**RSPF**)" means a legislatively approved fund in the Oregon State Treasury.

(29) “~~Residential Service Protection Fund-RSPF~~ Surchage” means a specified amount up to 35 cents per month against each paying retail subscriber who has telecommunications service with access to the telecommunications relay service:

(a) The RSPF surcharge shall be applied on a telecommunications circuit designated for a particular subscriber. One subscriber line shall be counted for each circuit that is capable of generating usage on the line side of the switched network regardless of the quantity of customer premises equipment connected to each circuit. For providers of central office based services, the surcharge shall be applied to each line that has unrestricted connection to the telecommunications relay service. These central office based service lines that have restricted access to the Oregon Telecommunications Relay Service (OTRS) shall be charged based on software design. For cellular, wireless, or other radio common carriers, the surcharge shall be applied on a per-instrument basis.

(b) The RSPF surcharge does not apply to interconnection between telecommunications utilities, telecommunications cooperatives, competitive telecommunications providers certified pursuant to ORS 759.020, radio common carriers, and interexchange carriers or other services exempt by the Constitution or laws of the United States or the State of Oregon.

(5c) The Commission annually shall review the surcharge rate and the balance in the Residential Service Protection Fund and may ~~make adjustments to adjust~~ the amount of the surcharge to ensure the fund has adequate resources but does not exceed six months of projected expenses. The annual review by the Commission shall take place every January.

**(10) “Remittance Report” means the RSPF remittance report completed on a form provided by the Commission.**

(911) “Toll Limitation Service” means a service provided by eligible telecommunications ~~carriers- providers~~ that allows OTAP recipients to elect not to allow the completion of outgoing toll calls from their telecommunications circuits (toll blocking) or to specify a certain toll usage that may be incurred on their telecommunications circuits per month or per billing cycle (toll control).

**(12) In computing any period of time prescribed or allowed by these rules, the day of the act or event from which the designated period of time begins to run shall not be included. The last day of the time period shall be included, unless it is a Saturday or legal holiday, including Sunday, in which event the time period runs until the end of the next day which is not a Saturday or a legal holiday. Legal holidays are those identified in ORS 187.010 and 187.020.**

Stat. Auth.: ORS Ch. 183, 756, 759 & Ch. 290, OL 1987

Stats. Implemented: ORS 756.040, 759.030 & Ch. 290, OL 1987

Hist.: PUC 9-1988, f. & cert. ef. 4-28-88 (Order No. 88-415); PUC 3-1992, f. & ef. 2-14-92 (Order No. 92-238); PUC 14-1995, f. & ef. 12-20-95 (Order No. 95-1328); PUC 18-1997, f. & ef. 12-17-97 (Order No. 97-489); PUC 4-2001, f. & ef. 1-24-01 (Order No. 01-117)

**860-033-0006**

**Monthly and Quarterly RSPF Surcharge Remittance Reports and Fees**

**(1) Each telecommunications provider shall submit the RSPF remittance report and surcharge fees each billing period. The remittance report and surcharge fees are due on the 21st calendar day after the close of each monthly or quarterly billing period. The telecommunications provider shall send the remittance report and surcharge fees to the RSPF manager at the Commission.**

**(a) Each telecommunications provider who has 1,000 or more customers shall collect and submit the RSPF surcharge fee and remittance report monthly.**

**(b) Each telecommunications provider who has fewer than 1,000 customers shall collect the RSPF surcharge fee and submit the remittance report either monthly or quarterly at the telecommunication provider's discretion.**

**(2) Each telecommunications provider shall submit the remittance report and surcharge fee with no exceptions. If the surcharge collected is \$0.00, the telecommunications provider shall still submit a monthly or quarterly remittance report, at the telecommunication provider's discretion.**

**(3) To cover administrative costs, for each billing period that a telecommunications provider fails to submit the surcharge fees in full on or before the day it is due as required by these rules, the Commission shall impose a late payment fee equal to 9 percent of the unpaid amount of the unpaid fee, up to a maximum of \$500. The Commission shall not impose a late payment fee until the surcharge fees are five business days past due.**

**(4) If a telecommunications provider fails to file a remittance report as required by these rules, the Commission shall impose a late report fee of \$100. The Commission shall not impose a late report fee until the remittance report is five business days past due.**

**(5) If the telecommunications provider fails to submit the surcharge fee in full on or before it is due, the Commission shall add interest on the unpaid amount at the rate of 9 percent per annum from the day payment was due until paid.**

**(6) If the amount shown due on a remittance report is not paid by the due date, the Commission may issue a proposed order to set the sum due. The Commission may waive late payment fees and interest if the evidence shows that the telecommunications provider submitted the surcharge fees late due to circumstances beyond its control.**

**Stat. Auth.: ORS Ch. 183, 756, 759 & Ch. 290, OL 1987**

**Stats. Implemented: ORS 756.040, 759.030 & Ch. 290, OL 1987**

**Hist.: NEW**

**860-033-0007**

**Estimated Report**

**(1) For any time period for which a telecommunications provider fails to file a remittance report as required by these rules, the Commission may make a proposed surcharge assessment based upon any information available to the Commission.**

**(2) The proposed assessment shall include a late payment fee equal to 9 percent of the proposed assessment amount, up to a maximum of \$500 for that reporting period.**

**(3) Each proposed assessment shall bear interest on the amount proposed at the rate of 9 percent per annum from the day the surcharge fee was originally due.**

**(4) The Commission's proposed assessment for a non-filed RSPF remittance report must be made no later than 3 years after the remittance report's due date.**

**(5) Notwithstanding section (4) of this rule, if the telecommunications provider did not hold a certificate of authority, if one was required by law, the Commission shall have an unlimited time to propose an assessment for the time period represented by the non-filed remittance report. The proposed assessment shall include all late payment fees as specified in this rule.**

**(6) Prior to the expiration of the period allowed for filing a petition for a hearing, the telecommunications provider may file its remittance report. The Commission shall accept the report and calculate late report fees, late payment fees, and interest in accordance with the original due date for the time period specified in these rules for the report and payment, if any, accompanying the report.**

**Stat. Auth.: ORS Ch. 183, 756, 759 & Ch. 290, OL 1987**

**Stats. Implemented: ORS 756.040, 759.030 & Ch. 290, OL 1987**

**Hist.: NEW**

**860-033-0008**

**Commission Audit and Proposed Assessment**

**(1) For any time period for which a telecommunications provider's remittance report was due, the Commission may audit the telecommunications provider as the Commission deems necessary and appropriate.**

**(2) The Commission's audit must begin no later than three years after the remittance report's due date. After completion of the audit, the Commission may propose to assess an additional surcharge amount due from the telecommunications provider.**

**(3) If a telecommunications provider failed to file a remittance report the time period specified in these rules, the Commission shall add to the proposed assessment a late payment fee equal to 9 percent of the amount of the proposed assessment, up to a maximum of \$500.**

(4) Each proposed assessment shall bear interest on the additional amount proposed at the rate of 9 percent per annum from the day the original surcharge amount was due.

(5) Notwithstanding section (2) of this rule, if the telecommunications provider did not hold a certificate of authority, if one was required by law, the Commission shall have an unlimited time to audit the telecommunications provider for the surcharge fees.

Stat. Auth.: ORS Ch. 183, 756, 759 & Ch. 290, OL 1987

Stats. Implemented: ORS 756.040, 759.030 & Ch. 290, OL 1987

Hist.: NEW

860-033-0009

Notice and Hearing on Proposed Orders

(1) The Commission shall provide written notice of a proposed order or proposed assessment upon the telecommunications provider, as well as a proposal to revoke or suspend the telecommunications provider's certificate of authority. The Commission will allow the telecommunications provider an opportunity to request a hearing before the Commission on the notice of proposed action.

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

(3) The telecommunications provider must specify in its petition all reasons it disputes the notice of proposed action. The Commission shall conduct a hearing on the telecommunications provider's petition under its rules governing hearings and proceedings.

(4) A Commission decision regarding the outcome of the petition shall become final after service of the Commission's order upon the petitioning telecommunications provider.

(5) A proposed assessment made by the Commission under these rules is due and payable on the 10<sup>th</sup> day after the Commission's order becomes final.

Stat. Auth.: ORS Ch. 183, 756, 759 & Ch. 290, OL 1987

Stats. Implemented: ORS 756.040, 759.030 & Ch. 290, OL 1987

Hist.: NEW

860-033-0010

OTAP Applicability

The Oregon Telephone Assistance Program (OTAP) is designed to provide reduced rates for an eligible telecommunications provider's carrier's basic residential service for low-income customers who meet eligibility requirements. Reduced rates apply to the single line, or service that is functionally equivalent to a single line, serving the eligible household's principal residence. The surcharge is levied on each local access line. All telecommunications utilities, public utilities, competitive providers, cooperative corporations, and unincorporated associations providing telecommunications service are required to follow these provisions.

Stat. Auth.: ORS Ch. 183, 756, 759 & Ch. 290, OL 1987

Stats. Implemented: ORS 756.040, 759.030 & Ch. 290, OL 1987

Hist.: PUC 9-1988, f. & cert. ef. 4-28-88 (Order No. 88-415); PUC 3-1992, f. & ef. 2-14-92 (Order No. 92-238); PUC 18-1997, f. & ef. 12-17-97 (Order No. 97-489)

#### **860-033-0030**

##### **OTAP Eligibility**

(1) Eligibility for OTAP can be demonstrated by one of the following methods:

(a) Application to the Commission by an individual currently receiving benefits from the federal food stamp program or receiving benefits from another low-income public assistance program for which eligibility requirements do not exceed 135 percent of the poverty level;

(b) Certification by an agency contracting with the Commission to qualify an individual as meeting eligibility criteria; or

(c) Certification of eligibility in a public assistance program which the Commission has determined to meet eligibility criteria.

(2) An applicant or recipient is required to furnish his/her social security number before his/her OTAP eligibility can be determined. Failure to do so will result in denial of benefits.

(3) An applicant must sign a written authorization (OTAP application) permitting the Commission to release necessary information to an eligible telecommunications provider carrier and, as necessary, to the following: Department of Human Services, the applicant's personal representative or a legal guardian.

(4) The Commission must be able to verify an individual's continuing participation in a qualifying program. Continuing OTAP eligibility will be based on periodic recertification by the Commission.

(5) Eligible telecommunications ~~carriers~~ providers and OTAP shall treat OTAP data as confidential information, to the extent allowed by law, to be used for OTAP program purposes only.

(6) An applicant or recipient is required to be the named subscriber to the local telecommunication service in order for that household to qualify for OTAP benefits. The Commission may waive this requirement if it determines that good cause exists.

**(7) An applicant who did not receive his or her benefits from a telecommunications provider after being approved by the Commission may be reimbursed up to a maximum of one year of OTAP benefits credited to their telephone line. Applicants must submit their request to the Commission in writing in order to receive the OTAP credit.**

Stat. Auth.: ORS Ch. 183, 756, 759 & Ch. 290, OL 1987

Stats. Implemented: ORS 756.040, 759.030 & Ch. 290, OL 1987

Hist.: PUC 9-1988, f. & cert. ef. 4-28-88 (Order No. 88-415); PUC 3-1992, f. & ef. 2-14-92 (Order No. 92-238); PUC 11-1995, f. & ef. 11-27-95 (Order No. 95-1217); PUC 6-1997, f. & ef. 1-10-97 (Order No. 97-005); PUC 18-1997, f. & ef. 12-17-97 (Order No. 97-489); PUC 12-1999, f. & ef. 11-18-99 (Order No. 99-709)

#### **860-033-0045**

##### **OTAP Compensable Expenses**

(1) **Each** eligible telecommunications ~~carriers~~ **provider** shall be compensated from the Residential Service Protection Fund for specific costs incurred as a consequence of participating in OTAP. Eligible telecommunications ~~carriers~~ **providers** shall request compensation by submitting invoices ~~to the Commission at least quarterly. no later than 21 calendar days after the end of the billing period. A telecommunication provider with 1,000 or more OTAP customers must submit the invoice monthly. A telecommunication provider with less than 1,000 monthly customers shall submit an invoice either monthly or quarterly.~~ Funds will be disbursed to a **carrier provider** no more than 20 **calendar** days after the Commission receives a properly filed invoice:

(a) **Each** eligible telecommunications ~~carriers~~ **provider** will be compensated for benefit costs. Compensation will equal the revenue ~~the carrier foregoes~~ by providing local service to qualified low-income customers at a reduced rate. **The telecommunications provider's** ~~I~~ **invoices** shall indicate the number of qualified customers who received the OTAP benefit during a specified period and the amount of revenue foregone during the same period;

(b) **Each** eligible telecommunications ~~carriers~~ **provider** shall receive compensation for each customer ~~they~~ **it enrolls** for the OTAP benefit at the Commission's request. **The telecommunications provider's** ~~I~~ **invoices** shall indicate the number of customers who were enrolled during a specified period;

(c) **Each** eligible telecommunications ~~carriers~~ **providers** shall be compensated for the cost of preparing special administrative reports for OTAP. **The telecommunications provider's** ~~I~~ **invoices** shall include the number and type of administrative reports prepared for the Commission during a specified period; and

**(d) An eligible telecommunications provider may not authorize OTAP benefits for customers without Commission approval. A telecommunication provider who grants OTAP benefits to ineligible customers will have the total amount of the OTAP benefits that**

**were given to those customers deducted from the monthly or quarterly OTAP reimbursement invoices that the telecommunications provider submits to the Commission.**

**(d e) An Eligible telecommunications carriers provider shall** be compensated for the cost of preparing and distributing educational materials about OTAP at the Commission's request. **The telecommunication provider's i** Invoices shall indicate the number of customers receiving the materials and include an itemized accounting of the cost of preparing the materials. **The Commission must approve all expenses before the materials are distributed to customers.**

(2) The Commission will determine the compensation **amount** based on the costs an eligible telecommunications **carrier provider** would reasonably incur to accomplish each task referred to in section (1) of this rule.

(3) **Each** eligible telecommunications ~~carriers~~ **provider** providing low-income telephone assistance under approved alternative plans shall be compensated for benefit and administrative costs. However, compensation from the Residential Service Protection Fund shall be no greater than the compensation carriers would have received had they participated in OTAP.

(4) Governmental agencies contracting with the Commission to certify the eligibility requirements of individuals or to perform other administrative functions authorized by these rules shall be compensated based on the terms of the contract.

Stat. Auth.: ORS Ch. 183, 756,759 & Ch. 290, OL 1987

Stats. Implemented: ORS 756.040, 759.030 & Ch. 290, OL 1987

Hist.: PUC 9-1988, f. & cert. ef. 4-28-88 (Order No. 88-415); PUC 18-1997, f. & ef. 12-17-97 (Order No. 97-489)

**860-033-0050**

**Link-Up America Eligibility**

(1) The Commission adopts the Federal Communications Commission (FCC) eligibility criteria for Link-Up America.

**(2) Each applicant and recipient must:**

~~(a) Applicants may self-certify to an eligible telecommunications carrier eligibility criteria other than the income criterion. The Commission must verify income eligibility; and~~

~~(ba) Applicants must b~~ **Be** certified by an organization approved by the Commission as meeting the requirements of an established income test for a low-income assistance program offered through the Department of Human Resources **or qualify for the Low Income Energy**

**Assistance Program (LIEAP). LIEAP recipients must provide the Commission a document demonstrating their participation in the program.**

**(b) Submit their Link-Up America applications to the Commission. The Commission will forward their application to the applicant's telecommunication carrier provider.**

(c) ~~An applicant or recipient is required to f~~ **F**urnish his/her social security number before his/her eligibility in ~~the OTAP~~ **Link-Up America** can be determined. Failure to do so will result in denial of benefits.

(2) Security deposit requirements will be waived for residential applicants who are eligible for Link-Up America and who satisfy the credit requirements of OAR Chapter 860, Division 021, or if the qualifying low-income consumer voluntarily elects toll blocking from the carrier, where available.

(3) If an applicant does not meet the credit requirements of OAR Chapter 860, Division 021, or has an outstanding bill with the eligible-telecommunications **carrier provider**, the deposit will not be waived and the applicant will be subject to the conditions and payment arrangements contained in OAR 860, Division 021.

(4) An eligible telecommunications **carrier provider** shall offer a 50 percent reduction in its tariffed line connection charge, up to a maximum reduction of \$30, to eligible Link-Up America applicants. This assistance does not cover special features, services, or deposits. Eligible residents living on federally recognized tribal lands shall receive an additional reduction of up to \$70 to cover 100% of the charges between \$60 and \$130 for a total maximum support amount of \$100 per qualifying low-income subscriber on tribal lands with initial connection or line extension costs of \$130 or more as prescribed in FCC Order No. 00-208, Paragraph 59.

**Tribal Lifeline recipients must contact their telecommunications providers directly to submit Link-Up America Applications.**

(5) An eligible telecommunications **carrier provider** shall offer a deferred schedule for payment of the charges assessed for commencing service, for which the consumer does not pay interest. The interest charges not assessed to the consumer shall be for connection charges of up to \$200 that are deferred for a period not to exceed one year. Charges assessed for commencing service include any charges that the carrier customarily assesses to connect subscribers to the network. These charges do not include any permissible security deposit requirements.

(6) An eligible telecommunications **carrier's provider's** Link-Up America program shall allow a customer to receive the benefit of the Link-Up America program for a second or subsequent time only for a principal place of residence with an address different from the address at which the Link-Up America assistance was previously provided.

(7) An eligible telecommunications **carrier provider** shall seek reimbursement from the National Exchange Carrier's Association (NECA), an authorized agent of the FCC.

(8) Failure by a customer to make payments as agreed upon with the eligible telecommunications **carrier provider** will result in disconnection of service pursuant to OAR Chapter 860, Division 021.

(9) Upon FCC approval of a Commission OTAP and Link-Up America plan, an eligible telecommunications **carrier provider** subject to Oregon Law 1987, Chapter 290, shall file appropriate tariffs or price lists with the Commission.

[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, 759 & Ch. 290, OL 1987

Stats. Implemented: ORS 756.040, 759.030 & Ch. 290, OL 1987

Hist.: PUC 9-1988, f. & cert. ef. 4-28-88 (Order No. 88-415); PUC 8-1989, f. & cert. ef. 6-8-89 (Order No. 89-724); PUC 3-1992, f. & ef. 2-14-92 (Order No. 92-238); PUC 2-1996, f. & ef. 4-18-96 (Order 96-102); PUC 6-1997, f. & ef. 1-10-97 (Order No. 97-005); PUC 18-1997, f. & ef. 12-17-97 (Order No. 97-489); PUC 02-2002, f. & ef. 2-5-02 (Order No. 01-1023)

#### **860-033-0505**

##### **TDAP Definitions**

(1) "Adaptive Equipment" means special telecommunications equipment that permits a **disabled person person with a disability**, other than a hearing- or speech-impaired **ed person**, to communicate effectively on the telephone.

(2) "Applicant" means a person who applies for an assistive telecommunication device, adaptive equipment, and/or signal device.

(3) "Assistive Telecommunication Device" means a device that uses a keyboard, acoustic coupler, display screen, Braille display, speakerphone, or amplifier to enable **people who are deaf, deaf-blind, severely hearing impaired, or severely speech impaired or people have a disability that prevents them from using a standard phone** to communicate effectively on the telephone.

(4) "Assistive Telecommunication Device" or "Adaptive Equipment Maintenance Service" means a facility authorized by the Commission to repair any reasonably damaged assistive telecommunication device or adaptive equipment.

(5) "Authorized Distributor" means a facility authorized by the Commission to distribute assistive telecommunication devices and adaptive equipment.

(6) "Disabled" means a physical condition other than hearing or speech impairment that requires use of adaptive equipment before a person can use the telephone.

(7) "Distribution Center" means a facility authorized by the Commission to distribute adaptive equipment.

(8) "Household" means all occupants living in one dwelling.

(9) "Local Exchange Carrier" means a "telecommunications utility" as defined in ORS 759.005(1)(c) or cooperative association that switches and transports communications between customers linked inside an exchange.

(10) "Recipient" means a person whose application for assistive telecommunication devices or adaptive equipment has been approved by the Commission and who receives assistive telecommunication devices or adaptive equipment.

(11) "TDAP Manager" means a person employed by the Commission to implement the Telecommunication Devices Access Program (TDAP).

(12) "TeleBraille" means a two-unit system designed for face-to-face and telephone communication through the use of a modified assistive telecommunication device equipped with a typewriter keyboard, visual display, and acoustical coupler, linked to a Braille display with a 20-cell dynamic Braille display.

(13) "Telecommunication Devices Access Program or TDAP" means a program established by the Commission which with the Telecommunication Devices Access Program Advisory Committee's advice provides assistive telecommunication devices or adaptive equipment and dual party relay services at no additional cost beyond telephone service for **customers who are** deaf, severely hearing-impaired, severely speech-impaired, or deaf-blind **customers**.

(14) "Telephone Relay Center" means a facility authorized by the Commission to provide telephone relay service.

(15) "TTY" is a telecommunication device for the deaf that uses a keyboard and a one-inch screen to transmit messages back and forth through a telephone line.

Stat. Auth.: ORS Ch. 183, 756, 759 & Ch. 290, OL 1987

Stats. Implemented: ORS 756.040, 759.030 & Ch. 290, OL 1987

Hist.: PUC 7-1988, f. & cert. ef. 4-6-88 (Order No. 88-339); PUC 3-1992, f. & ef. 2-14-92 (Order No. 92-238); PUC 18-1997, f. & ef. 12-17-97 (Order No. 97-489); PUC 12-1999, f. & ef. 11-18-99 (Order No. 99-709)

## 860-033-0530

### TDAP Eligibility

(1) **An Applicant is eligible** to receive assistive telecommunication devices or adaptive equipment from the TDAP if the applicant shows:

(a) "**Evidence of** regular access to a specific telephone number **in Oregon**; and

**(b) He or she is an Oregon resident; and**

~~(b)~~ **An applicant shall provide to the Commission a written form:**

~~(A)~~ **Provided by the TDAP; and**

~~(B)~~ **Signed by a licensed physician, audiologist, speech pathologist, vocational rehabilitation counselor from the Oregon State Vocational Rehabilitation Division, or a**

person certified by the program as qualified to determine whether a person meets the eligibility requirements of TDAP, and

**(C) A ~~The form shall~~ statement that the applicant is deaf, severely hearing-impaired, severely speech-impaired, or deaf-blind, or has a disability that prevents him or her from using a standard phone.**

**(d) For an applicant under 18 years of age, or an adult applicant who is determined to require a legal guardian, a parent or a guardian must apply on the applicant's behalf and assume full responsibility for the assistive telecommunication device or adaptive equipment and services. Emancipated minors are considered adults. Applicants under the age of 18 years of age must sign a new Conditions of Acceptance form within 30 calendar days after they become 18 years of age. Failure to do so will result in the Commission billing the parent or guardian for the device.**

(2) The TDAP shall only approve applications for persons who cannot use the telephone for expressive or receptive communication. The TDAP shall provide equipment suitable to access the telecommunications system.

(3) The TDAP shall provide one assistive telecommunication device or adaptive device per household. However, two assistive telecommunication devices or adaptive devices may be provided to a household if more than one eligible person permanently resides in the household.

**(4) If the Commission purchases new devices that may benefit a current TDAP recipient more than the Commission-provided equipment the recipient is currently using, the Commission will allow the recipient to use both the current and new device for a two-week trial period. The recipient must return the equipment that is less beneficial to the Commission within five business days after the end of the trial period. If the recipient fails to return the equipment, the recipient is responsible for the cost of the more expensive equipment.**

Stat. Auth.: ORS Ch. 183, 756, 759 & Ch. 290, OL 1987

Stats. Implemented: ORS 756.040, 759.030, & Ch. 290, OL 1987

Hist.: PUC 7-1988, f. & cert. ef. 4-6-88 (Order No. 88-339); PUC 18-1989, f. & cert. ef. 12-14-89 (Order No. 89-1602); PUC 3-1992, f. & ef. 2-14-92 (Order No. 92-238); PUC 18-1997, f. & ef. 12-17-97 (Order No. 97-489); PUC 12-1999, f. & ef. 11-18-99 (Order No. 99-709)

## **860-033-0535**

### **Ownership and Identification of Assistive Telecommunication Devices or Adaptive Equipment**

The following are ownership and identification procedures:

(1) All assistive telecommunication devices or adaptive equipment purchased under the TDAP will remain the property of the State of Oregon. The distributors and distribution centers shall record the serial number of each assistive telecommunication device or adaptive equipment.

A distribution center's failure to comply may terminate the center's contract with the State of Oregon.

(2) Any assistive telecommunication device or adaptive equipment distributed to eligible applicants under this program shall not be sold, loaned, or otherwise transferred from the possession of the original recipient. Unauthorized transfers will subject the recipient to repossession of the assistive telecommunication device or adaptive equipment, prosecution, or liability for the full purchase price of the equipment.

(3) Any recipient who moves to a different address within Oregon must report the new address to the Commission within **2030 calendar** days of the move. A recipient who moves out of Oregon, or who is no longer receiving telephone services, shall return all assistive telecommunication devices or adaptive equipment received through the TDAP to a distribution center or the Commission within 30 calendar days after termination of local exchange service or before leaving Oregon, whichever is sooner. However, a recipient may take assistive telecommunication devices or adaptive equipment on travel outside Oregon. The recipient must obtain written permission from the TDAP Manager if the travel will be for more than 90 **calendar** days.

(4) Recipients must sign the Conditions of Acceptance Agreement before they receive an assistive telecommunication device or adaptive equipment.

(5) **Stolen Equipment or Equipment Damaged by Acts of Nature or Disasters:**

(a) If the equipment is stolen, a recipient must notify the local law enforcement agency within 24 hours of the time the recipient discovers the theft. A recipient shall forward a copy of the police report to the TDAP Manager or a distribution center within five Commission business days of the date the theft was reported. If the local law enforcement agency does not respond to the recipient's theft report, the recipient must notify the Commission's TDAP Manager within two Commission business days after the theft was reported. The recipient shall forward his/her written report to the TDAP Manager that describes the theft and includes any witnesses' names, addresses, and telephone numbers.

(b) If the equipment is stolen outside the United States, the recipient must submit a copy of the police report to the TDAP Manager within five Commission business days of the date the theft was reported. If the local law enforcement agency does not respond to the recipient's theft report, the recipient must notify the TDAP Manager within two Commission business days after returning to Oregon. The recipient shall forward his/her written report to the TDAP Manager that includes the purpose of the recipient's travel; includes any witnesses' names, addresses, and telephone numbers; and describes the theft.

**(c) If the equipment is damaged due to acts of nature or disasters that include floods, storms, fire, or other acts of nature, the recipient must submit an insurance, fire department, police report, or other equivalent documentation about the event within five business days after the date the event occurred.**

Stat. Auth.: ORS Ch. 183, 756, 759 & Ch. 290, OL 1987  
Stats. Implemented: ORS 756.040, 759.030 & Ch. 290, OL 1987  
Hist. PUC 7-1988, f. & cert. ef. 4-6-88 (Order No. 88-339); PUC 3-1992, f. & ef. 2-14-92 (Order No. 92-238); PUC 18-1997, f. & ef. 12-17-97 (Order No. 97-489); PUC 12-1999, f. & ef. 11-18-99 (Order No. 99-709)

### **860-033-0536**

#### **TDAP Recipients' Liability**

~~The r~~Recipients ~~shall will~~ be held financially responsible for any damage to the equipment that is not caused by normal wear and tear or acts of nature or disasters, as a result of neglect, abuse, misuse, recklessness, intentional destruction, or loss. Recipients shall pay the damage in full. Recipients are not liable for damage caused to the equipment by normal wear and tear or acts of nature such as earthquakes and floods. Recipients shall also be held financially responsible for the full replacement cost of the state's equipment if they move out of Oregon without returning the equipment. To avoid financial responsibility for damaged equipment, the recipient must prove to the Commission that the damage was caused by normal wear and tear or acts of nature or disasters. The Commission will also hold the recipient financially responsible for the full replacement cost of the equipment if the recipient moves out of Oregon without returning the equipment.

Stat. Auth.: ORS Ch. 183, 756, 759 & Ch. 290, OR Laws 1987  
Stats. Implemented: ORS 756.040, 759.030 & Ch. 290, OR Laws 1987  
Hist. PUC 7-1988, f. & cert. ef. 4-6-88 (Order No. 88-339); PUC 3-1992, f. & ef. 2-14-92 (Order No. 92-238); Renumbered from 033-0535(5); PUC 18-1997, f. & ef. 12-17-97 (Order No. 97-489)

### **860-033-0537**

#### **Billing Recipients for Assistive Telecommunication Devices or Adaptive Equipment**

(1) Invoices:

(a) The Commission shall mail two invoice notices, at least 30 calendar days apart, indicating the amount of and the reason for such invoice to the responsible recipient at the last known address. The recipient shall have 30 calendar days to respond to each notice.

(b) The invoiced recipient may call or meet with the TDAP Manager to discuss and attempt to resolve the invoices. At the TDAP Manager's discretion, further investigation may be initiated. If the investigation finds that the invoice was issued in error (for example, there is no verifiable reason for the invoice having been sent), the invoice may be canceled.

(c) If the Commission does not receive payment, the TDAP Manager shall begin the complaint process pursuant to ORS 756.500.

(2) Incorrect address: When an invoice is returned with an incorrect address and the invoiced recipient has not notified the TDAP Manager of an address change as required by TDAP rules, the amount billed to the recipient shall become a liquidated debt.

(3) Recipients and applicants who request equipment must have paid all outstanding accounts with the Commission.

(4) Billing procedures for a household with more than two assistive telecommunication devices or adaptive equipment:

(a) The Commission shall mail a letter to the recipient who most recently applied for the equipment, asking the recipient to return the equipment within 30 **calendar** days, and

(b) If the Commission does not receive a response, the Commission shall send an invoice to the recipient. If the recipient does not pay the amount billed, the Commission may bill one or all the recipients in the household to either regain possession of the State of Oregon's equipment or receive the full replacement value of such equipment.

**(c) When the Commission receives notice that a recipient is deceased, the Commission shall request that the estate return the equipment. The Commission may bill the estate for the cost of replacing the equipment if it has not been returned, or is returned in damaged condition.**

Stat. Auth: ORS Ch. 183, 756, 759 & Ch. 290, OL 1987

Stats. Implemented: ORS 756.040, 759.030 & Ch. 290, OL 1987

Hist.: PUC 18-1997, f. & ef. 12-17-97 (Order No. 97-489); PUC 12-1999, f. & ef. 11-18-99 (Order No. 99-709)

#### **860-033-0540**

##### **Distribution Procedures for Assistive Telecommunication Devices or Adaptive Equipment**

(1) Subject to appropriation and approval of expenditures for assistive telecommunication devices or adaptive equipment and services purchased by the Commission, the Commission may contract with any governmental agency or other entity to establish authorized for assistive telecommunication devices or adaptive equipment distributors, an assistive telecommunication devices or adaptive equipment distribution center network, and an assistive telecommunication devices or adaptive equipment maintenance center network.

(2) If demand exceeds supply, the Commission will distribute assistive telecommunication devices or adaptive equipment to customers on a first-come first-serve basis.

(3) The authorized distributors shall inform the TDAP in writing of all incoming and outgoing shipping orders of assistive telecommunication devices or adaptive equipment. The written information shall include the serial number they engraved on all assistive telecommunication devices or adaptive equipment.

(4) The assistive telecommunication devices or adaptive equipment distribution centers shall inform the TDAP in writing of all incoming and outgoing shipping of assistive telecommunication devices or adaptive equipment with the engraved serial numbers.

(5) Upon notice from the TDAP Manager, the distribution centers shall distribute assistive telecommunication devices or adaptive equipment to eligible applicants.

(6) The distribution centers shall require all applicants, including parents and legal guardians, to sign the Conditions of Acceptance Agreement form supplied by the TDAP before they are provided an assistive telecommunication device or adaptive equipment. The distribution centers and maintenance centers shall forward all forms to the TDAP Manager.

(7) If needed, the Commission will contract with an agency or individual(s) to provide training on assistive telecommunication devices or adaptive equipment to specialized populations.

(8) Neither authorized assistive telecommunication devices or adaptive equipment distributors, distribution centers, maintenance centers, nor the TDAP shall provide replacement paper for the assistive telecommunication device or adaptive equipment, the payment of the recipient's monthly telephone bill, purchase or lease cost of recipient's telephone, ~~or~~ the cost of replacement light bulbs for signal devices or batteries for the telecommunications equipment.

~~————(9) The distribution center shall disseminate a copy of telephone rate reduction application forms, mailing forms for purchasing TTY paper, and telephone relay service information handouts.~~

Stat. Auth.: ORS Ch. 183, 756, 759 & Ch. 290, OL 1987

Stats. Implemented: ORS 756.040, 759.030 & Ch. 290, OL 1987

Hist.: PUC 7-1988, f. & cert. ef. 4-6-88 (Order No. 88-339); PUC 18-1989, f. & cert. ef. 12-14-89 (Order No. 89-1602); PUC 3-1992, f. & ef. 2-14-92 (Order No. 92-238); PUC 18-1997, f. & ef. 12-17-97 (Order No. 97-489); PUC 12-1999, f. & ef. 11-18-99 (Order No. 99-709)

## **860-033-0545**

### **TDAP Compensable Expense**

(1) The authorized assistive telecommunication devices or adaptive equipment distributors, distribution centers, maintenance centers, and eligible telecommunications carriers shall be compensated from the Residential Services Protection Fund for specific costs incurred as a result of participating in the TDAP. These contracted programs and services shall request compensation by submitting an invoice to the Commission at least quarterly. Funds will be disbursed to these contracted programs or services no more than **20-30 calendar** days after a properly filed invoice is received by the Commission:

(a) The eligible telecommunications carriers shall be compensated for the costs associated with the verification of service status and notification to the TDAP of service termination under OAR 860-033-0535(7).

(b) The authorized assistive telecommunication devices or adaptive equipment distributors will be compensated for coordinating and storing the assistive telecommunication devices or adaptive equipment. Invoices shall indicate all services performed by distributors and the number of the assistive telecommunication devices or adaptive equipment provided to recipients. Compensable services shall include the cost of assistive telecommunication devices or adaptive equipment with an identification number, shipping costs, storage costs, delivery costs, and other related costs.

(c) The distribution centers will be compensated for the cost of preparing and distributing the assistive telecommunication devices or adaptive equipment and maintenance services requested by the customers. Invoices shall indicate the number of the assistive telecommunication devices or adaptive equipment unit including the engraved identification on either distributing assistive telecommunication devices or adaptive equipment to the recipient or receiving assistive telecommunication devices or adaptive equipment repair orders from the recipient. The specific tasks of preparation and services in distributing the assistive telecommunication devices or adaptive equipment shall be subject to written agreement between the Commission and the contracted assistive telecommunication devices or adaptive equipment personnel.

(d) The assistive telecommunication devices or adaptive equipment maintenance centers shall be compensated for repairing the damaged assistive telecommunication devices or adaptive equipment, the storage of extra assistive telecommunication devices or adaptive equipment replacements, and the required insurance for storage. Invoices shall indicate the labor and parts of the damaged assistive telecommunication devices or adaptive equipment, the storage cost, and the insurance premium cost, including assistive telecommunication devices or adaptive equipment identification inventory.

(e) The Commission will determine the rate of compensation based on the cost the distribution center should reasonably incur to accomplish each task.

(2) Based upon accounting procedures established by the Commission, the assistive telecommunication devices or adaptive equipment distributors, distribution centers, and maintenance centers shall maintain accounting records in such a manner that costs associated with TDAP can be separately identified. Their records will be audited by the Commission.

Stat. Auth.: ORS Ch. 183, 756, 759 & Ch. 290, OL 1987

Stats. Implemented: ORS 756.040, 759.030 & Ch. 290, OL 1987

Hist.: PUC 7-1988, f. & cert. ef. 4-6-88 (Order No. 88-339); PUC 3-1992, f. & ef. 2-14-92 (Order No. 92-238); PUC 18-1997, f. & ef. 12-17-97 (Order No. 97-489); PUC 12-1999, f. & ef. 11-18-99 (Order No. 99-709)