

**PUBLIC UTILITY COMMISSION OF OREGON
STAFF REPORT
PUBLIC MEETING DATE: September 11, 2003**

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

DATE: August 28, 2003

TO: John Savage

FROM: Tom Harris through Terry Lambeth, Dave Booth and Phil Nyegaard

SUBJECT: AR 469: Open a rulemaking to adopt Commission rules OAR 860-032-0510, regarding Customer Proprietary Network Information, OAR 860-032-0520, regarding Customer Service Records, and to repeal the entire Division 035, Open Network Architecture.
UM 1068: Close Docket UM 1068.

STAFF RECOMMENDATION:

Staff recommends the Commission open a rulemaking to adopt administrative rule OAR 860-032-0510, which specifies how telecommunications providers treat Customer Proprietary Network Information, and to adopt OAR 860-032-0520, which specifies how telecommunication providers transmit Customer Service Record information from one carrier to another. Also, as part of the rulemaking, staff recommends the Commission repeal the entire Division 035, Open Network Architecture. Staff recommends that the rulemaking proceeding include a hearing. Staff also recommends the Commission close Docket UM 1068.

DISCUSSION:

Background

Staff's proposal is directed at four somewhat different, but related, events. First: On October 16, 2002, Allegiance Telecom of Oregon, Inc., filed a petition to open an investigation to develop rules or guidelines to ensure that end-user customers can migrate between competitive local exchange carriers (CLECs). The Commission opened the investigation, docket UM 1068. Staff's proposed rule, 860-032-0520, shown in the attachment, is a product of workshop discussions in UM 1068.

Second: For several years, Division 035 of Commission rules has been outdated, overtaken by the federal Telecommunications Act of 1996. Also, part of Division 035

was overruled by an Oregon Supreme Court decision in 1995. Staff believes that Division 035 is for the most part no longer useful and should be repealed.

Third: Staff proposes to retain one rule in Division 035, Access to Customer Proprietary Network Information (CPNI), as still valid and useful. Staff has revised the CPNI rule and proposes to move it to Division 032 as 860-032-0510. Staff's revisions to the CPNI rule are a product of workshop discussions in docket UM 1068.

Fourth: If the Commission agrees with Staff's proposal for a new rulemaking, docket AR 469, there is no longer a need for Docket UM 1068. The docket should be closed. The Commission will address the substance of Allegiance Telecom's petition by consideration of proposed rule OAR 860-032-0520.

Rule for Customer Service Records (OAR 860-032-0520)

When a customer changes telecommunications service from one carrier to another, sometimes referred to as migration, the new carrier needs information about the customer's service from the old carrier, so the new carrier can migrate the service without disruption to the customer. The information includes items such as billing telephone number or account number, working telephone number(s), current interexchange carrier, custom calling features in use, toll blocking, off premise extensions, and circuit ID. This information is contained in customer service records (CSRs).

The proposed rule was developed at the request of and by telecommunication providers, though it has been modified by staff. After Allegiance Telecom filed its petition, as part of Docket UM 1068, parties attended a prehearing conference and workshop in December 2002, a second workshop in May 2003, and a teleconference workshop in July 2003. Staff has received a great deal of input from several parties, including competitive providers and the incumbent carriers. Staff's proposed rule does not represent consensus of the parties in all aspects. There is still a significant area of disagreement between the parties regarding whether a carrier can request information only from the customer's carrier or also from underlying carriers which provide network elements or functions to the customer's carrier. Staff believes a hearing will be necessary.

As requested by the participating telecommunication providers, the scope of the proposed rule is limited to exchange of CSR information. The exchange of CSR information precedes actual customer migration from one carrier to another. The proposed rule does not deal with actual customer migration. Other steps, which the industry did not want considered in this rulemaking, include local service requests

(LSRs), whereby the new carrier requests the old carrier to migrate or transfer the customer, and the actual steps of transferring the customer to the new carrier.

Rule for Customer Proprietary Network Information (OAR 860-032-0510)

Within Division 035 the current rule, 860-035-0090, Access to Customer Proprietary Network Information (CPNI), provides Commission requirements for telecommunications carriers to safeguard and use CPNI. It is essentially a customer privacy protection rule. CPNI consists of information about telecommunication services and usage for each customer. The information in CPNI and CSRs overlaps, but they are different sets of information. The CPNI rule in Division 035 was first adopted in 1993 and then substantially changed in 1997.

The current CPNI rule is consistent with the relevant provisions of the Telecommunications Act of 1996 and Federal Communications Commission (FCC) rules, with one exception. The exception: Subsection (6) of the current CPNI rule states that a carrier may disclose CPNI to a third party only after the customer has authorized the carrier to do so. FCC rules, which implement federal law, describe an elaborate “opt-in/opt-out” process that allows carriers to disclose CPNI to third parties (often for marketing purposes) unless the customer affirmatively “opts-out”. Staff proposes to reword the current rule, clarify it, delete the current subsection (6), and make the rule consistent with federal law and FCC rules. Staff proposes to move the revised CPNI rule to Division 032 as 860-032-0510.

Parties to UM 1068 discussed the CPNI rule in the workshops. Staff does not think that its proposed CPNI rule is particularly controversial. There are two reasons for adopting as a PUC rule what is already required of the telecommunications carriers by federal law and FCC rules. One is that many carriers operating in Oregon look to state rules, especially Division 032, rather than to federal rules, for requirements they must meet. Not all carriers have the legal resources to keep abreast of all the requirements placed on them by the FCC and other regulatory authorities. The other reason is enforcement. The Department of Justice has advised staff that if it becomes necessary to deal with a violation of CPNI requirements in state courts, it is easier to point to a violation of a PUC rule than to point to a violation of a federal rule.

Repeal Division 035

Division 035 contains the Commission’s rules regarding Open Network Architecture (ONA). The rules were first adopted in 1993 in Docket AR 264. The rules were intended to permit enhanced service providers (e.g., voice mail providers) as well as end-use customers to purchase piece parts of telecommunications utilities’ networks

and to physically collocate communications equipment in the utilities' central offices. In August 1995 the Oregon Supreme Court overturned the physical collocation aspect of the ONA rules. At a minimum, the Commission needs to revise Division 035 to reflect that decision.

However, staff does not think the ONA rules have been used over the past ten years. The federal Telecommunications Act of 1996 requires incumbent local exchange carriers (ILECs), who are generally utilities, to provide unbundled network elements (piece parts) of their networks to competitive local exchange carriers (CLECs) and to allow CLECs to physically collocate equipment in the ILECs' central offices. Enhanced service providers buy the services they need through the utilities' tariffs or from the CLECs. For these reasons, staff recommends that Division 035 be repealed, with the exception that the CPNI rule be revised and moved to Division 032.

PROPOSED COMMISSION MOTION:

Rulemaking Docket AR 469 be opened to adopt a Commission administrative rule related to Customer Proprietary Network Information, OAR 860-032-0510, to adopt a rule related to Customer Service Records, OAR 860-032-0520, and to repeal all of Division 035. Also, investigative Docket UM 1068 be closed.

Attachment

cpnipubmtg

Customer Proprietary Network Information

860-032-0510

Customer Proprietary Network Information (CPNI)

(1) The purpose of this rule is to specify requirements under which telecommunications carriers may use, disclose, or permit access to customer proprietary network information. This rule does not relieve telecommunications carriers of any requirements imposed by the Federal Communications Commission (FCC) regarding Customer Proprietary Network Information in 47 Code of Federal Regulations (CFR), Part 64, §64.2001 through §64.2009, or by Section 222 of the Communications Act of 1934, as amended (47 USC 222).

(2) This rule applies to all telecommunications carriers providing intrastate telecommunications service in Oregon, except that it applies to telecommunications cooperatives only for services which are subject to the Commission's jurisdiction pursuant to ORS 759.220 and ORS 759.225.

(3) For purposes of this rule, the following definitions apply:

(a) "Aggregate customer proprietary network information" or "Aggregate CPNI" means collective CPNI data that relates to a group or category of services or customers, from which individual customer identities and characteristics have been removed.

(b) "Carrier" or "telecommunications carrier" means any provider of intrastate telecommunications service as defined in ORS 759.005(2). "Carrier" or "telecommunications carrier" includes competitive providers, telecommunications cooperatives, and telecommunications utilities.

(c) "Customer" means a subscriber, end-user, or consumer of carrier services or an applicant for carrier services.

(d) "Customer proprietary network information" or "CPNI" means individual customer information that a carrier accumulates in the course of providing telecommunications service to the customer. CPNI includes information that relates to type, quantity, technical configuration, destination, location, billing amounts, and usage data. CPNI also includes information contained in bills pertaining to telecommunications service received by a customer, except that CPNI does not include subscriber list information.

(e) "Subscriber list information" means the listed names of subscribers of a carrier and those subscribers' telephone numbers, addresses, or primary advertising classifications (as such classifications are assigned at the time of establishment of service), or any combination of such listed names, numbers, addresses, or classifications.

(4) Except as required by law or with approval of the customer, a telecommunications carrier that receives or obtains customer proprietary network information by virtue of its provision of telecommunications service shall only use, disclose, or permit access to CPNI in its provision of:

(a) The telecommunications service from which such information is derived; or

(b) Services necessary to, or used in, the provision of such telecommunications service, including publishing of directories and billing.

(5) A telecommunications carrier shall disclose CPNI, upon affirmative written request by the customer, to any person designated by the customer.

(6) A telecommunications carrier that obtains CPNI by virtue of its provision of a telecommunications service may use, disclose, or permit access to aggregate CPNI for any lawful purpose. However, a telecommunications carrier may use, disclose, or permit access to aggregate CPNI other than for purposes described in subsection (4) of this rule only if it provides such aggregate information to other carriers or persons on reasonable and nondiscriminatory terms and conditions, upon reasonable request therefor.

(7) Nothing in this rule prohibits a telecommunications carrier from using, disclosing, or permitting access to CPNI obtained from its customers, either directly or indirectly through its agents:

(a) To initiate, render, bill, or collect for telecommunications services;

(b) To protect the rights or property of the carrier, or to protect users of those services and other carriers from fraudulent, abusive, or unlawful use of, or subscription to, such services; or

(c) To provide any inbound telemarketing, referral, or administrative services to the customer for the duration of the call, if such call was initiated by the customer.

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

Stats. Implemented: ORS 756.040, 759.015 & 759.030

Hist.: New

Carrier to Carrier Transactions

860-032-0520

Customer Service Records (CSRs)

(1) The purpose of the rule is to provide for an exchange of information, in order to ensure that a requesting Local Service Provider (LSP) has enough

customer information from the current LSP, so a customer can change local exchange service from one LSP to another in a seamless and timely manner, without delays or unnecessary procedures. This rule does not relieve carriers of any requirements imposed by either the Federal Communications Commission (FCC) regarding Customer Proprietary Network Information in 47 Code of Federal Regulations (CFR), Part 64, §64.2001 through §64.2009, or by Section 222 of the Communications Act of 1934, as amended (47 USC 222).

(2) This rule:

(a) Applies to telecommunications carriers without an approved interconnection agreement with the requesting LSP that addresses requirements covered by this rule.

(b) Does not apply to telecommunication cooperatives.

(c) Does not apply to telecommunications carriers with an interconnection agreement with the requesting LSP, which is approved pursuant to OAR 860-016-0020 through 860-016-0030, that addresses requirements covered by this rule.

(3) For purposes of this rule, the following definitions apply:

(a) "Carrier" or "telecommunications carrier" means any provider of intrastate telecommunications service as defined in ORS 759.005(2). "Carrier" or "telecommunications carrier" includes competitive providers and telecommunications utilities.

(b) "Circuit ID" means circuit identification number of a loop.

(c) "Commission" means the Public Utility Commission of Oregon.

(d) "Competitive local exchange carrier" or "CLEC" means a competitive provider as defined in OAR 860-032-0001 that provides local exchange service.

(e) "Customer" means a subscriber, end-user, or consumer of local exchange services or an applicant for local exchange services.

(f) "Customer service record" or "CSR" means the customer's account information, which includes the customer's address, features, services, and equipment.

(g) "Customer proprietary network information" or "CPNI" has the meaning given in OAR 860-032-0510.

(h) "Current LSP" means the LSP from whom a customer receives local exchange service prior to migrating to another LSP. After migration occurs, the current LSP becomes the customer's old LSP.

(i) "Local exchange service" has the meaning given in OAR 860-032-0001.

(j) "Local service provider" or "LSP" means the carrier that interacts directly with the customer and provides local exchange service to that customer. Based on the service configuration, an LSP can also be the NSP. In some cases, the following more specific designations may be used:

(A) "New local service provider" or "new LSP" means the new local service provider after service migration occurs.

(B) "Old local service provider" or "old LSP" means the old local service provider after service migration occurs.

(k) "Local service request" or "LSR" means the industry standard forms and supporting documentation for ordering local exchange services.

(l) "Network service provider" or "NSP" means the company whose network carries the dial tone, switched services and loop(s) to the customer. Based on the service configuration, a NSP can also be the LSP. In some cases the following more specific designations may be used:

(A) "Network service provider-switch" or "NSP-switch" means the provider that provides the dial tone and switched services.

(B) "Network service provider-loop" or "NSP-loop" means the provider of the local loop to the end user premises or other mutually agreed upon point.

(C) "New network service provider" or "new NSP" means the new network service provider after service migration occurs.

(D) "Old network service provider" or "old NSP" means the old network service provider after service migration occurs.

(m) "Requesting LSP" means the LSP whom a customer has authorized to view his/her customer service information. After migration occurs, the requesting LSP becomes the customer's new LSP.

(n) "Resale" means the sale of a local exchange telecommunications service by a CLEC to a customer by purchasing that service from another carrier.

(o) "Transition information" means network information (e.g., circuit ID), identity of the current network service providers (e.g., loop and switch providers), and identity of other providers of services (e.g., E-911 provider, directory service provider) associated with a customer's telecommunications service.

(p) "UNE" means unbundled network element. The following more specific designations may be used.

(A) "UNE-loop" or "UNE-L" means unbundled network element loop.

(B) "UNE-platform" or "UNE-P" means unbundled network element platform.

(4) An LSP may request CSR information for a specific customer from the customer's current LSP. Before requesting a CSR for a specific customer, the requesting LSP must have on file one of the following verifiable forms of customer authorization:

(a) Letter of authorization from the customer to review his/her account;

(b) Third party verification of the customer's consent;

(c) Recording verifying consent from the customer to review his/her account; or

(d) Record of oral authorization given by the customer, which clearly gives the customer's consent to review his/her account.

(5) Every requesting LSP shall retain the customer authorization on file for one year from the date it received such authorization.

(6) A customer's current LSP may not require a copy of the end user's authorization from the requesting LSP prior to releasing the requested CSR. In the event the customer complains or other reasonable grounds exist, the current LSP may request verification of the customer's authorization from the requesting LSP. The parties must attempt to resolve any dispute concerning the validity of the customer's authorization prior to filing a formal complaint with the Commission.

(7) When requesting a CSR, a requesting LSP:

(a) Shall include, at a minimum, the following information:

(A) Customer's telephone number(s);

(B) An indication of customer consent to review the CSR;

(C) How to respond with the CSR information;

(D) The name of the requesting LSP, with contact name and telephone number, for questions about the request;

(E) Date and time the request was sent;

(F) Indication whether circuit ID is requested for UNE-L reuse; and

(G) Indication whether listing information is requested.

(b) May include the following information:

(A) Customer service address;

(B) Customer name;

(C) Tracking number for the request; or

(D) Other applicable information.

(8) Requesting LSPs may transmit CSR requests via facsimile, electronic mail, regular mail, or other agreed-upon means. All carriers must, at a minimum, allow for reception of CSR requests via facsimile.

(9) All carriers should reuse existing UNE-L facilities in lieu of ordering a new UNE-L. A UNE-L shall be considered reusable when the existing circuit or facilities are no longer needed by the old LSP to provide service to the migrating customer or any customer that is currently using those facilities. When requested and reuse of the UNE-L facility is available the current LSP must provide the circuit ID for the requested UNE-L facility to the requesting LSP as part of the CSR response or transition information. Authorization is not required from the old LSP for the new LSP to reuse portions of the network that were provided to

the old LSP by a NSP(s), and the old LSP shall not prohibit such reuse. To order the reuse of a UNE-L facility, the new LSP shall furnish the circuit ID on the LSR issued to the existing or new NSP-L.

(10) When responding to a CSR request the current LSP shall provide, at a minimum, the following:

(a) Account level information, including the following:

(A) Billing telephone number and/or account number;

(B) Complete customer billing name and address;

(C) Directory listing information including address and listing type, when requested;

(D) Complete service address (including floor, suite, unit); and

(E) Requesting LSP's tracking number when provided on the CSR request.

(b) Line level information, including the following:

(A) Working telephone number(s);

(B) Current preferred interexchange carrier(s) (PIC) for interLATA and intraLATA toll, including PIC freeze status;

(C) Local freeze status;

(D) All vertical features (e.g., custom calling, hunting) identified in a manner that clearly designates the products and services to which the customer subscribes;

(E) Options (e.g., Lifeline, 900 blocking, toll blocking, remote call forwarding, off-premises extensions), if applicable;

(F) Service configuration information (e.g., resale, UNE-L, UNE-P);

(G) Identification of the NSPs and/or LSPs, when different from the LSP providing the response. This is considered transition information.

(H) Identification of data services or any other services on the customer's line utilizing that UNE-L (e.g., alarm services); and

(I) Circuit ID to be provided when requested and the UNE-L is not being used for other services. This is considered transition information.

(11) If requested, and not provided with the CSR response, the current LSP shall provide transition information, and identify the current provider(s) of various service components to the customer (e.g., loop, directory service) if different from the current LSP. Circuit ID should only be provided by the current LSP when the UNE-L is reusable.

(12) Current LSPs responding to CSR requests may transmit the CSR information by facsimile, electronic mail, electronic data interchange, or by other agreed-upon means. All carriers must, at a minimum, allow for transmission of responses to CSR requests by facsimile. Regular mail may be used if the

response is 50 or more pages or if the CSR request was transmitted by regular mail.

(13) Upon the effective date of this rule, current LSPs shall respond to CSR requests within two business days of when the request was received. Six months after the effective date of this rule, current LSPs shall respond to CSR requests within one business day of when the request was received. If the current LSP cannot meet the response requirement for any legitimate reason, such as complex services, the current LSP shall notify the requesting LSP within 24 hours of when the request was received. The notification shall include a legitimate reason for the delay. The current LSP and the requesting LSP shall negotiate in good faith to establish a reasonable time for the current LSP to respond to the request.

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

Stats. Implemented: ORS 756.040, 759.015 & 759.030

Hist.: New

DIVISION 035

OPEN NETWORK ARCHITECTURE (ONA) FOR TELECOMMUNICATIONS PROVIDERS

860-035-0010

Purpose and Applicability

~~(1) The purpose of this division is to prescribe the Open Network Architecture (ONA) environment within the State of Oregon in order to:~~

~~(a) Stimulate enhanced services availability to the public through the local exchange network;~~

~~(b) Foster development of innovative applications for ONA services and vigorous competition among all enhanced service providers;~~

~~(c) Encourage public use of enhanced services;~~

~~(d) Create a regulatory framework which ensures nondiscriminatory access to the local exchange network for all providers of enhanced services on equal rates, terms, and conditions; and~~

~~(e) Prescribe conditions under which local exchange carriers may furnish enhanced services in competition with other providers of enhanced service without undue competitive advantage.~~

~~———— (2) This division shall apply to all LECs operating within the State of Oregon with the following exceptions:~~

~~———— (a) LECs which are cooperatives, unincorporated associations, or telecommunications utilities serving less than 50,000 access lines in Oregon and not affiliated or under common control with any other kind of public utility providing service in Oregon are exempt from OAR 860-035-0030, 0040, 0060(1), 0070(1), 0080(4), and 0090(2) and (3);~~

~~———— (b) This division shall apply to LECs which are cooperatives or unincorporated associations only for services which are subject to regulation by the Commission pursuant to ORS 759.220 and ORS 759.225.~~

~~———— (3) A LEC, at its discretion, may elect to offer enhanced services solely on a structurally separated basis by means of LEC affiliates. Should a LEC make such an election, the LEC shall treat the LEC affiliates as customers.~~

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

Stats. Implemented: ORS 183.335 & 756.040

Hist.: PUC 13-1993, f. & ef. 6-23-93 (Order No. 93-852); PUC 12-1999, f. & ef. 11-18-99 (Order No. 99-709)

860-035-0020

Definitions for Open Network Architecture

~~———— For purposes of this division:~~

~~———— (1) “Access Element (AE)” means an unbundled component of a BSA.~~

~~———— (2) “Aggregate CPNI” means summarized or aggregate noncustomer specific CPNI.~~

~~———— (3) “Ancillary Service (ANS)” means a service, such as billing and collection service or Operations Support Systems (OSS), which is performed by a local exchange carrier to directly administer or support provision of the LEC’s basic and enhanced services. ANSs do not include the provision of common administration such as human resources, accounting, purchasing, inventory control, or other similar functions.~~

~~———— (4) “Basic Service” means a service which provides transmission capacity for the movement of information. Basic services include data processing, computer memory or storage, switching techniques and other activities which facilitate the movement of information.~~

~~———— (5) “Basic Service Element (BSE)” means an optional feature or function provided by a LEC as part of basic services. An optional feature or function can also be classified as a CNS.~~

~~———— (6) “Basic Serving Arrangement (BSA)” means basic services provided by a LEC which link customers to and through the LEC’s network.~~

~~———— (7) “Building Block” means an element or group of elements representing the smallest feasible level of unbundling capable of being tariffed and offered as a service.~~

~~———— (8) “Collocation” means a service, offered by a LEC, which provides for placement and installation of a customer’s equipment, software, and databases on LEC premises. Premises include central offices, remote network facilities, or any other similar location owned by the LEC. The equipment, software, and databases are owned by the customer.~~

~~———— (9) “Complementary Network Service (CNS)” means an optional feature or function provided by a LEC as part of basic services. An optional feature or function can also be classified as a BSE.~~

~~———— (10) “Comparably Efficient Interconnection (CEI)” means the provisioning of interconnection and network functionalities to customers and the LEC’s own operations under the same rates, terms, and conditions, and on an unbundled and functionally equivalent basis.~~

~~———— (11) “Customer” means a subscriber, user, or consumer of LEC services or an applicant for LEC services.~~

~~———— (12) “Customer Proprietary Network Information (CPNI)” means individual customer data which a LEC accumulates in the course of providing basic services to the customer. CPNI includes types, quantities, and locations of services, billing amounts, repair information, calling patterns, and usage data. CPNI does not include listed name, address and telephone number, billed name, address, and telephone number, credit information, or information pertaining to enhanced or unregulated services supplied by a LEC.~~

~~———— (13) “Enhanced Service” means a service which employs computer processing applications that act on the format, content, code, protocol or similar aspects of the customer’s transmitted information; provides the customer with additional, different, or restructured information; or involves customer interaction with stored information. Enhanced services include but are not limited to information retrieval services, voice messaging, and protocol translation between customer equipment or software.~~

~~———— (14) “Enhanced Service Provider (ESP)” means a person which supplies enhanced services by using ONA services furnished by a LEC, including the enhanced services operation of a LEC and an IXC acting as an ESP. An IXC acts as an ESP only when it provides enhanced services to customers separate from its provision of basic services.~~

~~———— (15) “Interexchange Carrier (IXC)” means a provider of basic services, except extended area service, between local exchanges.~~

~~———— (16) “Joint Marketing” means the offering of enhanced and basic services by a LEC to customers either through contact initiated by the LEC or through contact initiated by the customer.~~

~~———— (17) “LEC Affiliate” means a person separate from the LEC which is either an affiliated interest or another company in which the LEC owns a controlling interest.~~

~~———— (18) “Local Exchange Carrier (LEC)” means a telecommunications utility, unincorporated association, or cooperative corporation which provides basic services within the boundaries of exchange maps filed with and approved by the Commission, and provides basic service to nearby exchanges as part of extended area service. A LEC includes its employees and individuals under contract.~~

~~———— (19) “Nonstructural Safeguards” means measures to prevent unjust discrimination and cross-subsidy of a LEC’s enhanced service operations from the LEC’s basic services operations. These measures include accounting rules, service unbundling, imputation, service deployment requirements, joint marketing, and CPNI restrictions.~~

~~———— (20) “Open Network Architecture (ONA) Services” means Basic Serving Arrangements, Access Elements, Basic Service Elements, Complementary Network Services, Ancillary Services, Collocation, and Virtual Collocation as defined in this division.~~

~~———— (21) “Operations Support Systems (OSS)” means services which support various network operation functions such as service provisioning, performance monitoring, and maintenance. OSS can be classified as an ANS.~~

~~———— (22) “Person” includes individuals, joint ventures, partnerships, corporations and associations, and governmental entities, or their officers, employees, agents, lessees, assignees, trustees or receivers.~~

~~———— (23) “Structural Safeguards” means measures to prevent unjust discrimination and cross-subsidy of a LEC’s enhanced service operations from the LEC’s basic services operations by employing separate personnel and facilities for enhanced services or a separate LEC Affiliate for enhanced services.~~

~~———— (24) “Tariff(s)” means any document on file with the Commission which specifies rates, terms, and conditions for LEC services, including price lists and special contracts.~~

~~———— (25) “Unbundling” means disaggregation of a service into building blocks or groups of building blocks which are offered to customers as separate services.~~

~~———— (26) “Unhooking” means any activity by a LEC which encourages a customer or prospective customer of an ESP to switch to the LEC’s version of the same or substantially similar enhanced service at the time the ESP’s customer contacts the LEC to obtain basic services which are necessary for operation of the enhanced service.~~

~~———— (27) “Virtual Collocation” means a service, offered by a LEC, which provides for placement and installation of customer selected equipment, software, and databases on LEC premises. Premises include central offices, remote network facilities, or any other similar location owned by the LEC.~~

Stat. Auth.: ORS Ch. 183, 756 & 759
Stats. Implemented: ORS 183.335 & 756.040
Hist.: PUC 13-1993, f. & ef. 6-23-93 (Order No. 93-852); PUC 9-1997, f. & ef. 4-17-97 (Order No. 97-119); PUC 9-2001, f. & cert. ef. 3-21-01 (Order No. 01-248)

860-035-0030

Extent of Unbundling

~~———— (1) In order to encourage the development of enhanced services and provide for a more competitive enhanced services market, LECs shall unbundle their local exchange and exchange access services subject to conditions provided in these rules.~~

~~———— (2) Unless otherwise ordered by the Commission, within six months following adoption of this rule, LECs shall create BSEs and CNSs by separating all optional features and functions from existing basic services in their intrastate local exchange and interexchange access tariffs.~~

~~———— (3) At least six months prior to offering any enhanced service, a LEC shall create ANSs by separating such services from existing basic services in their intrastate local exchange and interexchange access tariffs.~~

~~———— (4) BSEs, CNSs, and ANSs shall be offered to customers without requiring purchase of a BSA or any other service.~~

~~———— (5) LECs which currently offer an enhanced service shall comply with sections (3) and (4) above within six months following adoption of this rule.~~

~~———— (6) Nothing in this rule shall preclude a LEC from combining AEs, BSEs, CNSs, and ANSs in order to create additional services so long as the unbundled services are also offered to customers separately.~~

~~———— (7) The LECs shall unbundle BSAs into AEs, CNSs, and BSEs. The level, extent, and implementation of BSA unbundling will be determined by Commission order or as provided in section (8) below.~~

~~————(8) The LECs shall submit tariffs, which unbundle BSAs into AEs, CNSs and BSEs.~~

~~————(9) Customers shall be permitted to request AEs as part of the request process for ONA services according to 860-035-0070. LECs may elect to implement the resulting new ONA service but will not be required to do so until the LEC has unbundled BSAs according to provisions in sections (7) and (8) above.~~

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

Stats. Implemented: ORS 183.335 & 756.040

Hist.: PUC 13-1993, f. & ef. 6-23-93 (Order No. 93-852); PUC 12-1999, f. & ef. 11-18-99 (Order No. 99-709)

860-035-0040

Tariffing

~~————(1) Tariff nomenclature and service descriptions for ONA services shall be as consistent as possible with those adopted by the Information Industry Liaison Committee (IILC). Each LEC shall maintain a separate section of either its local exchange or interexchange access tariffs containing a listing of all intrastate ONA services offered by the LEC, or shall maintain a separate ONA tariff containing such a listing. The separate ONA section or tariff shall refer to appropriate tariff sections and price lists for each ONA service and include a compatibility matrix. The compatibility matrix shall indicate which BSAs and AEs are compatible with each BSE, CNS, and ANS offered by the LEC.~~

~~————(2) Optional features and functions may be classified by a LEC as either BSEs, CNSs, or both.~~

~~————(3) ONA services shall be made available in all tariffs where applicable.~~

~~————(4) When a BSA is unbundled under the provisions of 860-035-0030 (7), (8) and (9) the resulting services shall be tarified as AEs, BSEs, and CNSs.~~

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

Stats. Implemented: ORS 183.335 & 756.040

Hist.: PUC 13-1993, f. & ef. 6-23-93 (Order No. 93-852)

860-035-0050

Allocation of Costs

~~————If a telecommunications utility, unincorporated association, or cooperative corporation offers an enhanced service, costs and revenues of the enhanced service shall be allocated to the utility's enhanced service operation in~~

~~accordance with rules contained in OARs 860-027-0052, 860-034-0520, and 860-034-0740.~~

Stat. Auth.: ORS Ch. 183, 756 & 759
Stats. Implemented: ORS 183.335 & 756.040
Hist.: PUC 13-1993, f. & ef. 6-23-93 (Order No. 93-852)

860-035-0060

~~Rates for ONA Services~~

~~———— (1) Rates for ONA services contained in a LEC's interexchange access tariffs shall be equal to rates charged for the same ONA services when they are offered in the LEC's local exchange tariffs, unless there are regulatory policy or cost differences.~~

~~———— (2) Rates for ONA services shall be published in tariffs and shall be based on pricing policies determined by Commission order.~~

~~———— (3) Rates for collocation and virtual collocation may include elements for safety, security, floor space, power, maintenance and other relevant costs.~~

Stat. Auth.: ORS Ch. 183, 756 & 759
Stats. Implemented: ORS 183.335 & 756.040
Hist.: PUC 13-1993, f. & ef. 6-23-93 (Order No. 93-852)

860-035-0070

~~Deployment of ONA Services~~

~~———— (1) LECs shall issue an annual report providing a three-year deployment projection of ONA services availability by market area. The annual report shall identify and fully describe the current capabilities of each wire center, all ONA services that have become available since the previous report, and all ONA services that the LEC expects to make available within the ensuing three years. A copy of the annual report shall be filed with the Commission. LECs shall mail the annual report to customers upon their request.~~

~~———— (2) Upon request, LECs shall make available to customers references which provide the technical specifications of LEC interfaces that could affect customer premises equipment or the functions provided to customers for the purpose of providing enhanced services.~~

~~———— (3) All requests for ONA services shall be promptly evaluated by the LEC. A request to unbundle an existing service shall be considered a request for an ONA service.~~

~~_____ (a) Each LEC shall establish an ONA service request process within six months following adoption of this rule and make information about such process available to customers upon request;~~

~~_____ (b) The LEC shall inform the requesting customer whether the request is complete within 14 days of receiving the request. Within the 14 days, the LEC shall return an incomplete request to the customer together with a detailed explanation of deficiencies and directions for correcting such deficiencies;~~

~~_____ (c) Schedules for implementing ONA services may deviate from these rules by mutual agreement between the LEC and the requesting customer;~~

~~_____ (d) LECs must use the same process, criteria, and cost methods to evaluate ONA service requests from their own enhanced services operations as they use to evaluate requests from customers;~~

~~_____ (4) Complete requests for ONA services other than collocation and virtual collocation shall be evaluated pursuant to the following requirements:~~

~~_____ (a) The LEC shall provide a written response to the customer within 120 days of receipt. A status report shall be provided to the customer within 80 days of receipt;~~

~~_____ (b) The LEC shall implement the request by offering the service in tariffs or by special contract if the service is feasible based on currently available technology and forecasted demand is sufficient to allow the LEC to recover its cost. The LEC shall implement the request as soon as practical and in any event no later than 12 months following the receipt of the customer's request. Implementation of AEs is the only exception. AEs shall be implemented as prescribed in 860-035-0030(7), (8), and (9).~~

~~_____ (5) Complete requests for collocation and virtual collocation shall be evaluated pursuant to the following requirements:~~

~~_____ (a) The LEC shall provide a written response to the customer within 45 days of receipt;~~

~~_____ (b) The LEC shall implement the request as soon as feasible and in any event no later than 6 months of the receipt of the request;~~

~~_____ (c) The LEC shall implement a request for collocation or virtual collocation by offering the service in tariffs or by special contract if there is sufficient space or capacity and all applicable requirements in 860-035-0080(5) and 860-035-0110 are met.~~

~~_____ (6) A LEC which rejects a request for an ONA service shall inform the requesting customer of any alternative arrangements which will perform the same or similar function.~~

~~_____ (7) LECs shall maintain a detailed record of all requests made by customers for ONA services. At minimum, such records shall contain the name of~~

~~the requesting customer, the date of the request, the specific type of service requested, the LEC's planned and actual response dates, the criteria and cost methods used to evaluate the request, and the response of the LEC. Such records shall be subject to audit by the Commission and its staff.~~

~~—— (8) Disputes concerning requests for ONA services are subject to the complaint process in OAR 860-035-0130.~~

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

Stats. Implemented: ORS 183.335 & 756.040

Hist.: PUC 13-1993, f. & ef. 6-23-93 (Order No. 93-852)

860-035-0080

Availability of ONA Services

~~—— (1) A LEC which offers enhanced services on either a deregulated or regulated basis shall charge or impute to its own enhanced services operation the same tariffed or price listed rates for ONA services that the LEC offers to its customers.~~

~~—— (2) LECs which offer ONA services shall not give any advantage to their own enhanced services operation or otherwise discriminate regarding service availability, ordering, provisioning, and repair or access to technical standards.~~

~~—— (3) LECs shall not impose use and user restrictions for ONA services except as authorized by the Commission.~~

~~—— (4) A LEC which offers enhanced services on either a deregulated or regulated basis shall make billing and collection available as an ANS to ESPs which provide enhanced services in direct competition with comparable enhanced services provided by the LEC at rates, terms, and conditions which are equivalent to rates, terms and conditions available to the LEC's enhanced service operations. LECs shall also offer to ESPs information which the LEC can capture in the LEC's network which ESPs could use to bill for enhanced services.~~

~~—— (5) A LEC which offers enhanced services on either a deregulated or regulated basis shall make any OSS service defined as an ONA service under federal law available as an ANS to customers, pursuant to OAR 860-035-0070(1), (2), (3), (6), (7), and (8). All customer requests for OSS services not defined as ONA services under federal law must be approved by the Commission unless there is a mutual agreement between the LEC and the requesting customer.~~

~~—— (6) All facilities connected to, or interacting with, the facilities of a LEC shall be operated in a manner which will not impede the LEC's ability to meet standards of service required in OARs 860-023-0055 and 860-034-0360. All LECs shall report situations contrary to this requirement promptly to the Commission.~~

Stat. Auth.: ORS Ch. 183, 756 & 759
Stats. Implemented: ORS 183.335 & 756.040
Hist.: PUC 13-1993, f. & ef. 6-23-93 (Order No. 93-852)

860-035-0090

Access to CPNI

~~_____ (1) Except as provided by law or with the approval of the customer, a telecommunications carrier that receives or obtains customer proprietary network information (CPNI) by virtue of its provision of a telecommunications service shall only use, disclose, or permit access to individually identifiable customer proprietary network information in its provision of:~~

~~_____ (a) The telecommunications service from which such information is derived, or~~

~~_____ (b) Services necessary to, or used in, the provision of such telecommunications service, including the publishing of directories.~~

~~_____ (2) A telecommunications carrier shall disclose customer proprietary network information, upon affirmative written request by the customer, to any person designated by the customer.~~

~~_____ (3) A telecommunications carrier that receives or obtains customer proprietary network information by virtue of its provision of a telecommunications service may use, disclose, or permit access to aggregate customer information other than for the purposes described in section (1) of this rule. A local exchange carrier may use, disclose, or permit access to aggregate customer information other than for purposes described in section (1) of this rule only if it provides such aggregate information to other carriers or persons on reasonable and nondiscriminatory terms and conditions upon reasonable request therefore.~~

~~_____ (4) Nothing in this section prohibits a telecommunications carrier from using, disclosing, or permitting access to customer proprietary network information obtained from its customers, either directly or indirectly through its agents:~~

~~_____ (a) To initiate, render, bill, and collect for telecommunications services;~~

~~_____ (b) To protect the rights or property of the carrier, or to protect users of those services and other carriers from fraudulent, abusive, or unlawful use of, or subscription to, such services; or~~

~~_____ (c) To provide any inbound telemarketing, referral, or administrative services to the customer for the duration of the call, if such call was initiated by~~

~~the customer and the customer approves of the use of such information to provide such service.~~

~~(5) Notwithstanding the other requirements of this section, a telecommunications carrier that provides telephone exchange service shall provide subscriber list information gathered in its capacity as a provider of such service on a timely and unbundled basis, under non-discriminatory and reasonable rates, terms, and conditions, to any person upon request for the purpose of publishing directories in any format.~~

~~(6) A telecommunications carrier shall release a customer's CPNI to a third party only after the customer has authorized the telecommunications carrier to release such CPNI to the third party. A third party is any person other than the customer and the telecommunications carrier. A telecommunications carrier Affiliate is a third party.~~

~~(7) Each Oregon regulated telecommunications carrier shall specifically state in its tariffs the terms and conditions for providing CPNI and Aggregate CPNI.~~

~~(8) The term "telecommunications carrier" in this rule means any provider of "telecommunications service" as defined in ORS 759.005 (2)(g).~~

~~(9) The term "subscriber list information" means:~~

~~(a) Identifying the listed names of subscribers of a carrier and such subscribers' telephone numbers, addresses, or primary advertising classifications (as such classifications are assigned at the time of the establishment of such service), or any combination of such listed names, numbers, addresses, or classifications; and~~

~~(b) That the carrier or an affiliate has published, or accepted for publication in any directory format.~~

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

Stats. Implemented: ORS 183.335 & 756.040

Hist.: PUC 13-1993, f. & ef. 6-23-93 (Order No. 93-852); PUC 5-1997, f. & ef. 1-9-97 (temp) (Order No. 97-006); PUC 8-1997, f. & ef. 2-19-97 (amended temp) (Order No. 97-044); PUC 11-1997, f. & ef. 8-14-1997 (Order No. 97-233); PUC 12-1999, f. & ef. 11-18-99 (Order No. 99-709)

860-035-0100

Joint Marketing

~~(1) Subject to conditions provided in these rules, LECs shall be permitted to engage in joint marketing. As part of joint marketing, the LECs shall be allowed to use CPNI in accordance with 860-035-0090.~~

~~————(2) LECs shall not engage in unhooking.~~

~~————(3) Whenever LEC personnel provide information about enhanced services in the course of a customer contact involving basic services, the LEC shall advise the customer in an unbiased manner that similar enhanced services may be available from other providers. The LEC shall so advise customers before taking an order for an enhanced service.~~

~~————(4) A customer who subscribes to a LEC's enhanced service shall have seven days to cancel without cost or penalty. The LEC shall inform customers of this right at the time the order is placed.~~

~~————(5) LECs shall not use CPNI to create lists of prospective enhanced services customers for use in unsolicited direct sales such as telemarketing and direct mail except LECs may create such lists using the CPNI of any customer who has authorized the LEC to use the customer's CPNI for that purpose.~~

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

Stats. Implemented: ORS 183.335 & 756.040

Hist.: PUC 13-1993, f. & ef. 6-23-93 (Order No. 93-852)

860-035-0110

Collocation and Virtual Collocation

~~————(1) LECs shall offer collocation and virtual collocation to customers as provided in this rule.~~

~~————(2) Software and database collocation shall be limited to facilities designed for external applications such as rapid delivery platforms, service nodes, or memory partitions. All requests for software and database collocation must be approved by the Commission unless there is mutual agreement for such collocation between the LEC and the requesting customer.~~

~~————(3) A LEC shall require customers to meet the following collocation requirements:~~

~~————(a) Collocation space shall not be accessible by the general public. Customers shall comply with all reasonable security requirements of the LEC. Customers shall permit LEC personnel to enter and inspect collocation space upon 24 hours' notice, and only in the presence of a customer representative, except that LEC personnel may immediately enter in the event of an emergency;~~

~~————(b) Customers shall be responsible for the installation, operation, and maintenance of its own equipment. LECs may offer installation, operation, and maintenance services to customers. Equipment compatibility shall be the responsibility of the customer;~~

~~—— (c) Customers are required either to maintain comprehensive general liability insurance issued by a company qualified to do business in Oregon or provide evidence of self-insurance, in order to protect against death, personal injury and property damage, in an amount of not less than \$1 million;~~

~~—— (d) Customers are required to indemnify the LEC in the event there is damage to LEC equipment or the LEC's security is compromised as a result of the customer's intentional misuse or negligence;~~

~~—— (e) Customers shall request collocation in writing. The request shall specify technical and space requirements.~~

~~—— (4) LECs shall meet the following collocation requirements:~~

~~—— (a) If a customer has complied with all collocation requirements specified in this Division, the LEC shall permit the customer to collocate without regard to the technology employed by the customer;~~

~~—— (b) A LEC shall maintain and control access to its facilities in accordance with industry standards for security and safety. A LEC shall permit access to a customer's collocated facilities by authorized representatives of the customer in accordance with said standards;~~

~~—— (c) A LEC shall be required to indemnify the collocated customer against death, personal injury and property damage caused by the LEC's intentional misuse or negligence;~~

~~—— (d) A LEC shall assign space for collocation on a first-come, first-served basis based on the date the LEC receives a collocation request. The LEC shall maintain records documenting requests for collocation;~~

~~—— (e) In the event a LEC states it does not have sufficient space to allow for collocation and the customer disputes the LEC's assertion, the Commission's staff shall inspect the proposed point of collocation to verify that there is a lack of space. If the Commission's staff verifies that space is not available, the LEC shall deny collocation to the customer and offer the customer virtual collocation and CEI arrangements;~~

~~—— (f) Expansion of the LEC's enhanced services operation shall not take precedence over existing written requests for collocation. In the event a LEC requires space for basic services which is otherwise occupied by a customer, the LEC shall give the customer at least 12 months' written notice to vacate. Customers shall vacate on a last-in, first-out basis or as mutually agreed by all affected parties. Customers so forced to vacate shall be offered virtual collocation and CEI arrangements;~~

~~—— (g) In the event it is necessary for a LEC to construct or modify existing space to collocate a customer, the LEC may require the customer to pay reasonable construction costs for the construction of segregated space in a LEC~~

~~facility. Thereafter, the LEC may charge a monthly service charge for the use of the segregated space;~~

~~_____ (h) LECs shall permit customers to monitor, test, and control the customer's collocated equipment either on-site or remotely;~~

~~_____ (i) LECs shall permit a customer to transmit information, including signaling and protocols, through the LEC's network without interference or manipulation;~~

~~_____ (j) To the extent that a LEC provides enhanced services by means of computer software operating in a processor external to its central office switches, the LEC shall make available to customers the same interfaces which the LEC uses to enable communications between its switches and such external processor.~~

~~_____ (5) A LEC shall require customers to request virtual collocation in writing. Requests shall specify which equipment, software, and databases the customer requires.~~

~~_____ (6) LECs shall meet the following virtual collocation requirements:~~

~~_____ (a) A LEC shall maintain and control access to its facilities in accordance with industry standards for security and safety. A LEC shall permit access for inspection purposes by authorized representatives of the customer in accordance with said standards;~~

~~_____ (b) A LEC shall assign space for virtual collocation on a first-come, first-served basis based on the date the LEC receives a request. The LEC shall maintain records documenting requests for virtual collocation;~~

~~_____ (c) In the event a LEC states it does not have sufficient space to allow for virtual collocation and the customer disputes the LEC's assertion, the Commission's staff shall inspect the proposed point of virtual collocation to verify that there is a lack of space. If the Commission's staff verifies that space is not available, the LEC shall deny virtual collocation to the customer and offer the customer CEI arrangements;~~

~~_____ (d) Expansion of the LEC's enhanced services operation shall not take precedence over existing written requests for virtual collocation. In the event a LEC requires space for basic services which is otherwise occupied by a customer, the LEC shall give the customer at least 12 months' written notice to vacate. Customers shall vacate on a last-in, first-out basis or as agreed by all affected parties. Customers so forced to vacate shall be offered CEI arrangements;~~

~~_____ (e) In the event it is necessary for a LEC to construct or modify existing space to virtually collocate a customer, the LEC may require the customer to pay reasonable construction costs;~~

~~_____ (f) Equipment may be purchased by either the LEC or the customer. If the customer purchases the equipment, the customer must provide all equipment and software necessary for virtual collocation that it desires to be dedicated solely for its own use. The LEC will lease such equipment from the customer for \$1 in each central office where the customer subscribes to virtual collocation. The LEC will be responsible for installation, maintenance and removal of such equipment. LECs shall permit customers to monitor, test, and control the virtually collocated equipment;~~

~~_____ (g) LECs shall permit a customer to transmit information, including signaling and protocols, through the LEC's network without interference or manipulation;~~

~~_____ (h) To the extent that a LEC provides enhanced services by means of computer software operating in a processor external to its central office switches, the LEC shall make available to customers the same interfaces which the LEC uses to enable communications between its switches and such external processor.~~

~~_____ (7) Disputes concerning collocation and virtual collocation are subject to the complaint process in OAR 860-035-0130.~~

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

Stats. Implemented: ORS 183.335 & 756.040

Hist.: PUC 13-1993, f. & ef. 6-23-93 (Order No. 93-852); PUC 9-1997, f. & ef. 4-17-97 (Order No. 97-119); PUC 12-1999, f. & ef. 11-18-99 (Order No. 99-709)

860-035-0120

Safeguards

~~_____ (1) LECs which offer enhanced services shall be permitted to provide enhanced services on an integrated basis using nonstructural safeguards and nondiscrimination requirements provided in these rules. Accordingly, LECs shall be allowed to use common personnel and facilities to provide basic and enhanced services, including deregulated enhanced services. If an enhanced service of a LEC is exempt from regulation, costs and revenues of the enhanced service shall be allocated to the LEC's enhanced service operation pursuant to rules for regulated and nonregulated accounting set forth in OARs 860-027-0052, 860-034-0394, and 860-034-0740.~~

~~_____ (2) If a complaint filed pursuant to ORS 756.500 alleges that a LEC has discriminated against competitors or has misallocated costs and revenues between enhanced and basic services, the Commission will investigate the complaint. If the Commission determines that the allegations in the complaint are~~

~~substantiated, the Commission shall impose appropriate remedies, including but not limited to structural safeguards, ratemaking adjustments, termination of or restrictions on the LEC's enhanced service offerings.~~

Stat. Auth.: ORS Ch. 183, 756 & 759
Stats. Implemented: ORS 183.335 & 756.040
Hist.: PUC 13-1993, f. & ef. 6-23-93 (Order No. 93-852)

860-035-0130

Dispute Resolution

~~———— (1) If a LEC denies a request for ONA services, the LEC shall advise the customer as to the specific reasons and provide the customer reasonable opportunity to resolve problems identified by the LEC. The customer or LEC may seek assistance from the Commission and its staff to resolve the dispute before filing a complaint under this rule.~~

~~———— (2) If a LEC rejects a customer's request for an ONA service, or if a customer is not satisfied with a LEC's response to such a request, the customer may bring a complaint before the Commission under ORS 756.500. If a complaint is filed based upon a rejection of a request for service, the Commission shall determine whether the requested ONA service is viable, as defined in OAR 860-035-0070(4)(b). If the complaint relates to the timeliness of the LEC's response, or the implementation schedule, rates, terms, or conditions of providing the service, the Commission shall determine the reasonableness of the LEC's actions or positions.~~

~~———— (3) If a LEC specifically rejects a customer's request for collocation or virtual collocation, or if the LEC's implementation schedule, rates, terms, or conditions for collocation or virtual collocation are considered unsatisfactory by the customer, the customer may bring a complaint before the Commission under ORS 756.500. A customer may also bring a complaint under ORS 756.500 if the customer is not satisfied with the Comparably Efficient Interconnection arrangements. The Commission shall determine whether collocation or virtual collocation should be allowed or, if applicable, whether alternative arrangements meet the CEI requirement. If the customer's complaint relates to implementation schedule, rates, terms, or conditions of collocation or virtual collocation, the Commission shall determine whether the LEC's action or position is justified.~~

Stat. Auth.: ORS Ch. 183, 756 & 759
Stats. Implemented: ORS 183.335 & 756.040
Hist.: PUC 13-1993, f. & ef. 6-23-93 (Order No. 93-852)