

**PUBLIC UTILITY COMMISSION OF OREGON
STAFF REPORT
PUBLIC MEETING DATE: July 20, 2004**

REGULAR **CONSENT** **EFFECTIVE DATE** _____ **N/A**

DATE: July 13, 2004

TO: Commissioners Lee Beyer, Ray Baum, and John Savage

FROM: Terry Lambeth

THROUGH: Lee Sparling, Phil Nyegaard, and Cynthia Van Landuyt

SUBJECT: AR 484: Initiate a Rulemaking to Update OARs 860-027-0120 and 860-034-0580 for Incumbent Local Exchange Carriers.

STAFF RECOMMENDATION:

Initiate a rulemaking to update the Commission's rules for preservation of records of telecommunications utilities and cooperatives, also known as incumbent local exchange carriers (ILECs), in OARs 860-027-0120 and 860-034-0580.

DISCUSSION:

OARs 860-027-0120 and 860-034-0580 require ILECs to follow the Federal Communications Commission's (FCC) October 1998 edition for preservation of records, which is shown in Attachment 3. Staff's proposed rules (Attachment 1) would adopt the FCC's most recent edition dated October 2003, as shown in Attachment 2 (copied from http://www.access.gpo.gov/nara/cfr/waisidx_03/47cfr42_03.html). The main difference is the new §42.10, Public Availability of Information Concerning Interexchange Services.

It is staff's understanding that the record retention rules have not changed substantially for the energy utilities. Therefore, staff is not proposing any changes for energy utilities in OAR 860-027-0120.

PROPOSED COMMISSION MOTION:

The Commission initiate a rulemaking to update the preservation of records requirements for ILECs in OARs 860-027-0120 and 860-034-0580.

Attachments

860-027-0120

Preservation and Destruction of Records

(1) Electric Utilities. Preservation of Records of Public Utilities and Licensees, Part 125, Chapter 1, 18 Code of Federal Regulations (April 1, 2001, edition) is hereby adopted and prescribed by the Commission for each electric utility with the following exception: Corporate and General, Organizational documents – An electric utility shall retain minute books of stockholders', directors', and directors' committee meetings for twenty-five years.

(2) Gas Utilities. The Preservation of Records of Public Utilities and Licensees, Part 225, Chapter 1, 18 Code of Federal Regulations (April 1, 2001, edition) is hereby adopted and prescribed by the Commission for each gas utility with the following exception: Corporate and General, Organizational documents – A gas utility shall retain minute books of stockholders', directors', and directors' committee meetings for twenty-five years.

(3) Steam Heat Utilities. The Preservation of Records of Public Utilities and Licensees, Part 125, Chapter 1, 18 Code of Federal Regulations (April 1, 2001, edition) is hereby adopted and prescribed by the Commission for each steam heat utility with the following exception: Corporate and General, Organizational documents – A steam heat utility shall retain minute books of stockholders', directors', and directors' committee meetings for twenty-five years.

(4) Large telecommunications Utilities. The Regulations to Govern the Preservation of Records of Communication Common Carriers, Part 42, 47 Code of Federal Regulations Chapter 1 (October 1, ~~1998~~**2003**, ~~E~~**e**dition) is hereby adopted and prescribed by the Commission for each large telecommunications utility.

[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, 757 & 759

Stats. Implemented: ORS 756.040, 756.105, 759.045 & 759.225

Hist.: PUC 164, f. 4-18-74, ef. 5-11-74 (Order No. 74-307); PUC 12-1985, f. & ef. 8-20-85 (Order No. 85-751); PUC 15-1986, f. & ef. 11-10-86 (Order No. 86-1144); PUC 1-1998, f. & ef. 1-12-98 (Order No. 98-016); PUC 8-2000, f. & ef. 5-26-00 (Order No. 00-262); Renumbered from 860-028-0010 by PUC 19-2001, f. & ef. 6-21-01 (Order No. 01-487)

Docket AR 484
Staff's Proposed Rule Revisions
July 13, 2004

860-034-0580

Preservation and Destruction of Records for Small Telecommunications Utilities and Type 2 Cooperatives

The Regulations to Govern the Preservation of Records of Communication Common Carriers, Part 42, 47 Code of Federal Regulations Chapter 1 (October 1, ~~1998~~**2003**, ~~E~~**e**dition) is hereby adopted and prescribed by the Commission for all small telecommunications utilities and Type 2 telecommunications cooperatives.

[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

Stats. Implemented: ORS 756.040, 759.045 & 759.225

Hist.: PUC 6-1993, f. & ef. 2-19-93 (Order No. 93-185); PUC 3-1999, f. & ef. 8-10-99 (Order No. 99-468); PUC 8-2000, f. & ef. 5-26-00 (Order No. 00-262); PUC 15-2001, f. & cert. ef. 6-21-01 (Order No. 01-488)

**TITLE 47--TELECOMMUNICATION
CHAPTER I--FEDERAL COMMUNICATIONS COMMISSION
PART 42--PRESERVATION OF RECORDS OF
COMMUNICATION COMMON CARRIERS
October 1, 2003**

As Proposed for Adoption in Docket AR 484

§42.01 Applicability.

This part prescribes the regulations governing the preservation of records of communication common carriers that are fully subject to the jurisdiction of the Commission.

§42.1 Scope of the regulations in this part.

(a) The regulations in this part apply to all accounts, records, memoranda, documents, papers, and correspondence prepared by or on behalf of the carrier as well as those which come into its possession in connection with the acquisition of property, such as by purchase, consolidation, merger, etc.

(b) The regulations in this part shall not be construed as requiring the preparation of accounts, records, or memoranda not required to be prepared by other regulations, such as the Uniform System of Accounts, except as provided hereinafter.

(c) The regulations in this part shall not be construed as excusing compliance with any other lawful requirement for the preservation of records.

§42.2 Designation of a supervisory official.

Each carrier subject to the regulations in this part shall designate one or more officials to supervise the preservation of its records.

§42.3 Protection and storage of records.

The carrier shall protect records subject to the regulations in this part from damage from fires, and other hazards and, in the selection of storage spaces, safeguard the records from unnecessary exposure to deterioration.

§42.4 Index of records.

Each carrier shall maintain at its operating company headquarters a master index of records. The master index shall identify the records retained, the related retention period, and the locations where the records are maintained. The master index shall be subject to review by Commission staff and the Commission shall reserve the right to add records, or lengthen retention periods upon finding that retention periods may be insufficient for its regulatory purposes. When any records are lost or destroyed before expiration of the retention period set forth in the master

index, a certified statement shall be added to the master index, as soon as practicable, listing, as far as may be determined, the records lost or destroyed and describing the circumstances of the premature loss or destruction. At each office of the carrier where records are kept or stored, the carrier shall arrange, file, and currently index the records on site so that they may be readily identified and made available to representatives of the Commission.

§42.5 Preparation and preservation of reproductions of original records.

(a) Each carrier may use a retention medium of its choice to preserve records in lieu of original records, provided that they observe the requirements of paragraphs (b) and (c) of this section.

(b) A paper or microfilm record need not be created to satisfy the requirements of this part if the record is initially prepared in machine-readable medium such as punched cards, magnetic tapes, and disks. Each record kept in a machine-readable medium shall be accompanied by a statement clearly indicating the type of data included in the record and certifying that the information contained in it has been accurately duplicated. This statement shall be executed by a person duplicating the records. The records shall be indexed and retained in such a manner that they are easily accessible, and the carrier shall have the facilities available to locate,

identify and reproduce the records in readable form without loss of clarity.

(c) Records may be retained on microfilm provided they meet the requirements of the Federal Business Records Act (28 U.S.C. 1732).

§42.6 Retention of telephone toll records.

Each carrier that offers or bills toll telephone service shall retain for a period of 18 months such records as are necessary to provide the following billing information about telephone toll calls: the name, address, and telephone number of the caller, telephone number called, date, time and length of the call. Each carrier shall retain this information for toll calls that it bills whether it is billing its own toll service customers for toll calls or billing customers for another carrier.

§42.7 Retention of other records.

Except as specified in Sec. 42.6, each carrier shall retain records identified in its master index of records for the period established therein. Records relevant to complaint proceedings not already contained in the index of records should be added to the index as soon as a complaint is filed and retained until final disposition of the complaint. Records a carrier is directed to retain as the result of a proceeding or inquiry by the Commission to the extent not already contained in the index will also be added to the index and retained until final disposition of the proceeding or inquiry.

§42.10 Public availability of information concerning interexchange services.

(a) A nondominant interexchange carrier (IXC) shall make available to any member of the public, in at least one location, during regular business hours, information concerning its current rates, terms and conditions for all of its international and interstate, domestic, interexchange services. Such information shall be made available in an easy to understand format and in a timely manner. Following an inquiry or complaint from the public concerning rates, terms and conditions for such services, a carrier shall specify that such information is available and the manner in which the public may obtain the information.

(b) In addition, a nondominant IXC that maintains an Internet website shall make such rate and service information specified in paragraph (a) of this section available on-line at its Internet website in a timely and easily accessible manner, and shall update this information regularly.

§42.11 Retention of information concerning detariffed interexchange services.

(a) A nondominant IXC shall maintain, for submission to the Commission and to state regulatory commissions upon request, price and service information regarding all of the carrier's international and interstate, domestic, interexchange service

offerings. A commercial mobile radio service (CMRS) provider shall maintain such price and service information only about its international common carrier service offerings and only for those routes on which the CMRS provider is classified as dominant under Sec. 63.10 of this Chapter due to an affiliation with a foreign carrier that collects settlement payments from U.S. carriers for terminating U.S. international switched traffic at the foreign end of the route. Such a CMRS provider is not required to maintain its price and service information, however, on any such affiliated route if it provides service on that route solely through the resale of an unaffiliated facilities-based provider's international switched services. The price and service information maintained for purposes of this paragraph shall include documents supporting the rates, terms, and conditions of the carrier's international and interstate, domestic, interexchange offerings. The information maintained pursuant to this section shall be maintained in a manner that allows the carrier to produce such records within ten business days. For purposes of this paragraph, affiliated and foreign carrier are defined in Sec. 63.09 of this chapter.

(b) The price and service information maintained pursuant to this section shall be retained for a period of at least two years and six months following the date the carrier ceases to provide services pursuant to such rates, terms and conditions.

TITLE 47--TELECOMMUNICATION
CHAPTER I--FEDERAL COMMUNICATIONS COMMISSION
PART 42--PRESERVATION OF RECORDS OF
COMMUNICATION COMMON CARRIERS
October 1, 1998

As Adopted in Docket AR 376

§42.01 Applicability.

This part prescribes the regulations governing the preservation of records of communication common carriers that are fully subject to the jurisdiction of the Commission.

§42.1 Scope of the regulations in this part.

(a) The regulations in this part apply to all accounts, records, memoranda, documents, papers, and correspondence prepared by or on behalf of the carrier as well as those which come into its possession in connection with the acquisition of property, such as by purchase, consolidation, merger, etc.

(b) The regulations in this part shall not be construed as requiring the preparation of accounts, records, or memoranda not required to be prepared by other regulations, such as the Uniform System of Accounts, except as provided hereinafter.

(c) The regulations in this part shall not be construed as excusing compliance with any other lawful requirement for the preservation of records.

§42.2 Designation of a supervisory official.

Each carrier subject to the regulations in this part shall designate

one or more officials to supervise the preservation of its records.

§42.3 Protection and storage of records.

The carrier shall protect records subject to the regulations in this part from damage from fires, and other hazards and, in the selection of storage spaces, safeguard the records from unnecessary exposure to deterioration.

§42.4 Index of records.

Each carrier shall maintain at its operating company headquarters a master index of records. The master index shall identify the records retained, the related retention period, and the locations where the records are maintained. The master index shall be subject to review by Commission staff and the Commission shall reserve the right to add records, or lengthen retention periods upon finding that retention periods may be insufficient for its regulatory purposes. When any records are lost or destroyed before expiration of the retention period set forth in the master index, a certified statement shall be added to the master index, as soon as practicable, listing, as far as may be determined, the records lost or destroyed and describing the circumstances of the

premature loss or destruction. At each office of the carrier where records are kept or stored, the carrier shall arrange, file, and currently index the records on site so that they may be readily identified and made available to representatives of the Commission.

§42.5 Preparation and preservation of reproductions of original records.

(a) Each carrier may use a retention medium of its choice to preserve records in lieu of original records, provided that they observe the requirements of paragraphs (b) and (c) of this section.

(b) A paper or microfilm record need not be created to satisfy the requirements of this part if the record is initially prepared in machine-readable medium such as punched cards, magnetic tapes, and disks. Each record kept in a machine-readable medium shall be accompanied by a statement clearly indicating the type of data included in the record and certifying that the information contained in it has been accurately duplicated. This statement shall be executed by a person duplicating the records. The records shall be indexed and retained in such a manner that they are easily accessible, and the carrier shall have the facilities available to locate, identify and reproduce the records in readable form without loss of clarity.

(c) Records may be retained on microfilm provided they meet the requirements of the Federal Business Records Act (28 U.S.C. 1732).

§42.6 Retention of telephone toll records.

Each carrier that offers or bills toll telephone service shall retain for a period of 18 months such records as are necessary to provide the following billing information about telephone toll calls: the name, address, and telephone number of the caller, telephone number called, date, time and length of the call. Each carrier shall retain this information for toll calls that it bills whether it is billing its own toll service customers for toll calls or billing customers for another carrier.

§42.7 Retention of other records.

Except as specified in Sec. 42.6, each carrier shall retain records identified in its master index of records for the period established therein. Records relevant to complaint proceedings not already contained in the index of records should be added to the index as soon as a complaint is filed and retained until final disposition of the complaint. Records a carrier is directed to retain as the result of a proceeding or inquiry by the Commission to the extent not already contained in the index will also be added to the index and retained until final disposition of the proceeding or inquiry.

Docket AR 484
Code of Federal Regulations, Title 47, Volume 3
October 1, 1998
As Adopted in AR 376

§42.11 Retention of information concerning detariffed interexchange services.

(a) A nondominant interexchange carrier shall maintain, for submission to the Commission upon request, price and service information regarding all of the carrier's detariffed interstate, domestic, interexchange service offerings. The price and service information maintained for purposes of this subparagraph shall include documents supporting the rates, terms, and conditions of the carrier's detariffed interstate, domestic, interexchange offerings. The information maintained pursuant to this subsection shall be maintained in a manner that allows the carrier to produce such records within ten business days.

(b) The price and service information maintained pursuant to this section shall be retained for a period of at least two years and six months following the date the carrier ceases to provide services pursuant to such rates, terms and conditions.