

**PUBLIC UTILITY COMMISSION OF OREGON
STAFF REPORT
PUBLIC MEETING DATE: February 22, 2005**

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

DATE: February 10, 2005

TO: Public Utility Commission

FROM: Wolodymyr Birko

THROUGH: Lee Sparling, Phil Nyegaard, Lance Ball, Terry Lambeth

SUBJECT: AR 493: Initiate a Rulemaking to Amend Telecommunications Service Quality OARs 860-023-0000, 860-023-0001, 860-023-0005, and to add 860-023-0054.

STAFF RECOMMENDATION:

The Commission should open a rulemaking to revise OARs 860-023-0000, 860-023-0001, 860-023-0005, and 860-023-0054.

DISCUSSION:

This rulemaking basically establishes default service quality rules for intrastate toll carriers that have not specified levels of service to their customers in accordance with ORS 759.020 (6) which states: "Any provider of intrastate toll service must inform customers of the service level furnished by that provider, according to rules of the commission. The commission, by rule shall determine the level of intrastate toll service that is standard. Any provider of intrastate toll service must identify the service level that provider plans to furnish in an annual report to the commission. The commission shall revoke the certification of any provider that does not consistently furnish the service level identified in the provider's annual report."

That default level is the industry standard that all intra office, interoffice and access trunking and associated switching components must allow completion of ninety nine percent (P.01) of all properly dialed calls made during the average busy season busy hour without encountering blocking or equipment irregularities. The intrastate toll service provider must also provide the level of performance of special service (Private lines)

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specified in its tariffs or contracts. These service levels for blocking and circuit performance are both historically valid and achievable.

PROPOSED COMMISSION MOTION:

That Staff's request to open a rulemaking to establish service quality rules for intrastate toll service providers be granted.

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860-023-0000

Applicability of Division 023

The rules contained in this Division apply to energy utilities, large telecommunications utilities, ~~and~~ telecommunications carriers, and intrastate toll service providers, as defined in OAR 860-023-0001.

Stat. Auth.: ORS 183, ORS 756, ORS 757 & ORS 759

Stats. Implemented: ORS 756.040, ORS 759.030, ORS 759.040, ORS 759.045 & ORS 759.450

Hist.: PUC 6-1993, f. & cert. ef. 2-19-93 (Order No. 93-185); PUC 14-1997, f. & cert. ef. 11-20-97; PUC 3-1999, f. & cert. ef. 8-10-99; PUC 14-2000, f. & cert. ef. 8-23-00; PUC 11-2001, f. & cert. ef. 4-18-01

860-023-0001

Definitions for Service Standards

For purposes of this Division, except when a different scope is explicitly stated:

(1) "Customer" means any person, firm, partnership, corporation, municipality, cooperative organization, governmental agency, or other legal entity that has applied for, been accepted for, or is currently receiving service from an energy utility, large telecommunications utility, or intrastate toll service provider.

~~(42)~~ "Energy utility" means a public utility as defined in ORS 757.005 except a water utility or wastewater utility. An energy utility can be an "electric utility," "gas utility," or "steam heat utility."

(3) "Intrastate" means telecommunications service that originates and terminates in Oregon.

(4) "Intrastate toll service provider" means a telecommunications carrier that provides intrastate toll services to retail customers.

~~(25)~~ "Large telecommunications utility" means any telecommunications utility, as defined in ORS 759.005, that is not partially exempt from regulation under ORS 759.040.

~~(36)~~ "Local exchange service" has the meaning given to "local exchange telecommunications service" in ORS 759.005(1) (c).

~~(47)~~ "Telecommunications carrier" has the meaning provided in ORS 759.400 (3).

(8) "Toll" has the meaning provided in ORS 759.005(h).

Stat. Auth.: ORS 183 & ORS 756

Stats. Implemented: ORS 756.040 & ORS 759.005

Hist.: PUC 2-1996, f. & cert. ef. 4-18-96 (Order No. 96-102); PUC 9-1998, f. & cert. ef. 4-28-98; PUC 16-2001, f. & cert. ef. 6-21-01

860-023-0005

Maintenance of Plant and Equipment by Energy Utilities, ~~and~~ Large Telecommunications Utilities, and Intrastate Toll Service Providers.

Each energy utility, and large telecommunications utility, and intrastate toll service provider ~~shall~~must have and maintain its entire plant and system in such condition that it will furnish

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safe, adequate, and reasonably continuous service. Each energy utility, and large telecommunications utility, and intrastate toll service provider shall must inspect its plant distribution system and facilities in such manner, and with such frequency, as maybe needed to ensure a reasonably complete knowledge about their condition and adequacy at all times. Each energy utility, and large telecommunications utility, and intrastate toll service provider shall must keep such records of the conditions found as the utility considers necessary to properly maintain its system, unless in special cases the Commission specifies a more complete record.

Stat. Auth.: ORS 183, ORS 756, ORS 757 & ORS 759

Stats. Implemented: ORS 757.020 & ORS 759.035

Hist.: PUC 164, f. 4-18-74, ef. 5-11-74 (Order 74-307); PUC 9-1998, f. & cert. ef. 4-28-98; PUC 16-2001, f. & cert. ef. 6-21-01; PUC 13-2002, f. & cert. ef. 3-26-02

860-023-0054

Retail Intrastate Toll Service Provider Service Standards

Every intrastate toll service provider must adhere to the following standards:

(1) Measurement and Reporting Requirement. Each intrastate toll service provider must take the measurements required by this rule and report them to the Commission as specified.

(2) Additional Reporting Requirements. The Commission may require a telecommunications carrier to provide additional reports on any item covered by this rule.

(3) Blocked Calls. An intrastate toll service provider must engineer and maintain all intra office, interoffice, and access trunking and associated switching components to allow completion of all properly dialed calls made during the average busy season busy hour without encountering blocking or equipment irregularities in excess of levels listed in subsection (b) of this section, or inform customers of the level of service provided by the intrastate toll service provider in accordance with ORS. 759. 020 (6).

(a) Measurement:

(A) An intrastate toll service provider must collect traffic data; that is, peg counts and usage data generated by individual components of equipment or by the wire center as a whole, and calculate blocking levels of the inter office final trunk groups;

(B) System blocking will be determined by special testing at the wire center. Commission Staff or a carrier technician will place test calls to a predetermined test number, and the total number of attempted calls and the number of completed calls will be counted. The percent of completion of the calls shall be calculated.

(b) Objective Service Level:

(A) An intrastate toll service provider must maintain interoffice final trunk groups to allow 99 percent completion of all properly dialed calls during the average busy season busy hour without blocking (P.01 grade of service);

(B) An intrastate toll service provider must maintain its network operation so that 99 percent of all properly dialed calls shall not experience blocking during any normal busy hour.

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(c) Reporting Requirement: Each intrastate toll service provider must report to the Commission if the carrier does not meet the objective service level for trunk group blocking. The switching system blocking report is required after a Commission- directed switching-system blocking test is completed;

(d) Retention Requirement: Each intrastate toll service provider must maintain records for one year.

(4) Special Service Lines. All special service access lines must meet the performance requirements specified in applicable intrastate toll service provider tariffs or contracts.

(5) An intrastate toll service provider connected to the facilities of other telecommunications carriers as defined in ORS 759.400 (3) shall operate its system in a manner that will not impede a telecommunications carrier's or intrastate toll service provider's ability to meet required standards of service. A telecommunications carrier or intrastate toll service provider shall report interconnection operational problems promptly to the Commission.

(6) Alternatives to these Telecommunications Standards. An intrastate toll service provider whose normal methods of operation do not provide for exact compliance with these rules may file for a variance from, or waiver of one or more of these rules, if it specifically indicates the alternative standards to be applied, or indicates which standards would be waived.

(7) Remedies for Violation of this Standard:

(a) If the Commission believes that a telecommunications carrier subject to this rule has violated one or more of its service standards, the Commission must require the intrastate toll service provider to submit a plan for improving performance as provided in ORS 759.450(5).

(b) In addition to the remedy provided under ORS 759.450(5), if the Commission believes that an intrastate toll service provider subject to this rule has violated one or more of its service standards, the Commission shall give the intrastate toll service provider notice and an opportunity to request a hearing. If the Commission finds a violation has occurred, the Commission may require the intrastate toll service provider to provide the following relief to the affected customers:

(A) Customer billing credits equal to the associated non-recurring and recurring charges of the intrastate toll service provider for the affected service for the period of the violation; or

(B) Other relief authorized by Oregon law.

(9) Exemption from these rules:

(a) An intrastate toll service provider may petition the Commission for an exemption, in whole or in part, from these rules.

(b) The Commission may grant an exemption including, but not limited to, the following circumstance: If the Commission determines that effective competition exists in one or more exchanges, it may exempt all telecommunications carriers providing telecommunications services in those exchanges from the requirements of this rule, in whole or in part. In making this determination, the Commission must consider:

(A) The extent to which the service is available from alternative providers in the relevant exchange or exchanges;

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(B) The extent to which the services of alternative providers are functionally equivalent or substitutable at comparable rates, terms, and conditions;

(C) Existing barriers to market entry;

(D) Market share and concentration;

(E) Price to cost ratios;

(F) Number of suppliers;

(G) Price demand side substitutability (for example, customer perceptions of competitors as viable alternatives); and

(H) Any other factors deemed relevant by the Commission.

(c) When a telecommunications carrier or intrastate toll service provider petitions the Commission for exemption under this provision, the Commission must provide notice of the petition to all relevant telecommunications carriers providing the applicable service(s) in the exchange(s) in question. Such notified telecommunications carriers will be provided an opportunity to submit comments in response to the petition. The comments may include requests that, following the Commission's analysis outlined above in Section (15) (b) (A)–(H), the commenting telecommunications carrier be exempt from these rules for the applicable service(s) in the relevant exchange(s).

[Publications: Publications referenced are available from the agency]

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

Stats. Implemented: ORS 756.040, ORS 759.020, ORS 759.030, ORS 759.050 & ORS 759.450.

Hist.: NEW