

**BEFORE THE PUBLIC UTILITY COMMISSION
OF OREGON**

AR 497/AR 503

In the Matter of Adoption of OAR 860-021-0550)
and OAR 860-034-0275 Regarding Termination)
of Local Exchange Residential Service for)
Telecommunications Customers at Risk of)
Domestic Violence and Abuse (AR 497).)

ORDER

_____))
In the Matter of Adoption of OAR 860-021-0575)
and OAR 860-034-0276 and Amendment of)
OAR 860-021-0510 and 860-034-0270)
Regarding Time Payment Agreements for)
Telecommunications Utilities (AR 503).)

**DISPOSITION: RULES ADOPTED AND AMENDED; TEMPORARY
RULES REPEALED**

On June 9, 2005, the Governor signed SB 983 (Chapter 290, OR Laws 2005), which requires the Public Utility Commission of Oregon (Commission) to adopt rules regarding specific circumstances under which local exchange residential service can not be terminated. The new legislation had an effective date of September 1, 2005. At the August 16, 2005, public meeting, the Commission adopted temporary rules and opened a permanent rule docket, AR 497. *See* Order No. 05-927.

On August 22, 2005, the Commission filed a Notice of Proposed Rulemaking Hearing and Statement of Need and Fiscal Impact with the Secretary of State in AR 497. Notice was subsequently provided to certain legislators specified in ORS 183.335(1)(d) and to all interested persons on the service lists maintained pursuant to OAR 860-011-0001. Notice of the rulemaking hearing was published in the *Oregon Bulletin* on October 1, 2005.

On October 19, 2005, a public comment hearing was held for AR 497. No public comment was made at hearing, and no comments have been filed with the Commission.

While preparing the permanent rules and order for the Commission to adopt, the assigned ALJ determined that an additional docket should be opened to establish a single set of time payment agreement rules. A new docket, AR 503, was opened for the purpose of

removing the time payment agreement language from the emergency medical certificate rules and placing that language into two separate time payment agreement rules.

On December 15, 2005, the Commission filed a Notice of Proposed Rulemaking Hearing and Statement of Need and Fiscal Impact with the Secretary of State in AR 503. Notice was subsequently provided to certain legislators specified in ORS 183.335(1)(d) and to all interested persons on the service lists maintained pursuant to OAR 860-011-0001. Notice of the rulemaking hearing was published in the *Oregon Bulletin* on January 1, 2006.

On January 17, 2006, a public comment hearing was held for AR 503. No public comment was made at hearing, and no comments have been filed with the Commission.

On February 21, 2006, the Commission deliberated on this matter at its regular public meeting, and entered the decision set out in this order.

AR 497

SB 983 requires the Commission to adopt rules to prohibit the termination of the local exchange residential telephone service if the termination would significantly endanger a customer, or a person in the household of the customer, who is at risk of domestic violence or abuse as defined by law. Procedures must be established by all telecommunications public utilities for receipt of affidavits from the customer. Specifically, the customer must submit a court document with the affidavit to the utility. The court document must be a restraining order that protects the person at risk. To qualify, that person must be:

- a. At risk of domestic violence;
- b. At risk of unwanted sexual contact;
- c. A person with disabilities who would be at risk of abuse;
- d. An elderly person who would be at risk of abuse; or
- e. A victim of stalking.

SB 983 does not excuse customers from paying for their telecommunication service. Customers must enter into a reasonable payment agreement with the telecommunications utility if an overdue balance exists. A customer's failure to either enter into an agreement, or to abide by the terms of the agreement, can result in termination of local exchange residential service.

AR 503

OARs 860-021-0510 and 860-034-0270, which describe the process and requirements for customers to obtain an emergency medical certificate, also contain provisions about entering into agreements for paying past due bills. These agreements are known as time payment agreements. As customers with overdue bills also have the

ability to enter into time payment agreements under SB 983, it made sense to have a separate time payment agreement rule rather than copy the same language into two rules. While a few elements have been removed which are no longer necessary, the new time payment rules are not substantively changed.

We have reviewed the proposed rules, and find that they should be adopted. Upon filing of the new rules with the Secretary of State, temporary OAR 860-021-0550 and OAR 860-034-0275 are repealed.

ORDER

IT IS ORDERED that:

1. The amended and new rules attached as Appendix A are adopted.
2. Temporary OAR 860-021-0550 and temporary OAR 860-034-0275 are repealed on the effective date of these adopted rules.
3. The rules become effective upon filing with the Secretary of State.

Made, entered, and effective _____.

Lee Beyer
Chairman

John Savage
Commissioner

Ray Baum
Commissioner

A person may petition the Commission for amendment or repeal of a rule pursuant to ORS 183.390. A person may petition the Court of Appeals to determine the validity of a rule pursuant to ORS 183.400.

860-021-0510

Emergency Medical Certificate for Residential Telecommunications Utility Service

(1) A large telecommunications utility shall not disconnect local exchange residential service if the customer submits certification from a qualified medical professional stating that disconnection would significantly endanger the physical health of the customer or a member of the customer's household. "Qualified medical professional" means a licensed physician, nurse-practitioner, or physician's assistant authorized to diagnose and treat the medical condition described without direct supervision by a physician.

(2) The oral certification to the large telecommunications utility must be confirmed in writing within 14 days by the qualified medical professional prescribing medical care. A written certification must include:

(a) The name of the person to whom the certificate applies and relationship to the customer;

(b) A complete description of the health conditions;

(c) An explanation of how the person's physical health will be significantly endangered by terminating the service;

(d) A statement indicating how long the health condition is expected to last;

(e) A statement specifying the particular type of service required (for example, electricity for respirator); and

(f) The signature of the qualified medical professional prescribing medical care.

(3) If an emergency medical certificate is not submitted in compliance with section (2) of this rule, the large telecommunications utility may disconnect local exchange service after providing five days' notice to the customer. The notice shall contain the information set forth in OAR 860-021-0505(3)(a) through (d) and shall be served as required by OAR 860-021-0505(4) and (5).

(4) An emergency medical certificate shall be valid only for the length of time the health endangerment is certified to exist, but no longer than six months without renewal.

(5) A customer submitting an emergency medical certificate:

(a) Remains responsible for payment of telecommunications services provided by the large telecommunications utility; and

(b) Must enter into a time payment agreement with the large telecommunications utility pursuant to OAR 860-021-0575 if the customer has an overdue balance. This time payment agreement must be entered into within 10 days after submission of the certificate. is not excused from paying for telecommunications utility service. Customers are required to enter into a written time payment agreement with the large telecommunications utility within ten days after submitting the certificate when an overdue balance exists. Terms of the time payment agreement shall be those in section (6) of this rule or such other terms as the parties agree upon in writing. Local exchange service is subject to termination if a customer refuses to enter into or abide by terms of a payment agreement.

~~(6) A large telecommunications utility may not disconnect local exchange residential service for nonpayment if a customer who has submitted a valid emergency medical certificate:~~

~~(a) Pays the greater of \$10 or 25 percent of the balance owing for tariffed or price-listed services the large telecommunications utility has on file with the~~

Commission, including:

~~(A) For a customer who is not eligible for OTAP, the amount overdue, existing late payment charges, any current bill, and any bill under preparation but not yet presented to the customer; or~~

~~(B) For a customer who is eligible for OTAP, the amount overdue, existing late payment charges, any current bill, and any bill under preparation but not yet presented to the customer but excluding any toll charges or late payment charges attributable to toll charges.~~

~~(b) Enters into a time payment agreement to bring the account into balance within 90 days of the date of the agreement; and~~

~~(c) Agrees to keep subsequent bills current.~~

~~(7) When good cause exists, the large telecommunications utility may provide, or the Commission may require, more liberal payment arrangements than those set forth in this rule after providing notice of the payment arrangements in section (6) of this rule. The large telecommunications utility shall keep a written record of the reasons for such action.~~

~~(8) Nothing in this rule prevents a large telecommunications utility and a customer with a medical certificate from entering into a time payment agreement for other charges.~~

~~(9) The large telecommunications utility and the customer may agree in writing to an alternate payment arrangement, provided the large telecommunications utility first informs the customer of the payment terms in subsections (6)(a) through (6)(e) of this rule.~~

~~(10) Time payments shall be on a monthly basis unless otherwise agreed to by the large telecommunications utility and the customer.~~

~~(11) The large telecommunications utility shall not accelerate payments under a time payment agreement when the customer changes residences. The customer must pay tariff charges associated with the change in residence.~~

~~(12) If a customer who has submitted an emergency medical certificate fails to enter into or abide by the terms of a time payment agreement, the large telecommunications utility shall disconnect local exchange service after providing five days' notice to the customer and to the Commission's Consumer Services Division. The contents of the notice and manner of service are provided in section (3) of this rule. A hearing may thereafter be held to determine whether the large telecommunications utility should be permitted to disconnect service to the customer.~~

~~(136)~~ A large telecommunications utility may verify the accuracy of an emergency medical certificate. If the large telecommunications utility believes a customer does not qualify, or no longer qualifies for an emergency medical certificate, the large telecommunications utility may apply to the Commission for permission to disconnect service to the customer.

~~(147)~~ After notice to the Commission, a large telecommunications utility may terminate local exchange residential service if the large telecommunications utility providing the service lacks the technical ability to terminate toll telecommunications service without also terminating local exchange service.

Stat. Auth.: ORS Ch. 183, 756 & Ch. 290, OL 1987
Stats. Implemented: ORS 756.040, 757.750, 757.760, 757.755 & Ch. 290, OL 1987
Hist.: PUC 3-1989, f. 2-6-89, cert. ef. 2-8-89 (Order No. 89-038); PUC 16-1990, f. 9-28-90, cert. ef. 10-1-90 (Order No. 90-1105); PUC 17-1997, f. 12-11-97 (Temp), ef. 1-1-98 (Order No. 97-469); PUC 5-1998, f. & ef. 3-13-98 (Order No. 98-058); PUC 16-2001, f. & ef. 6-21-01 (Order No. 01-488)

860-021-0550

Termination of Local Exchange Residential Service for Telecommunications

Customers at Significant Risk

(1) "At significant risk" means:

(a) At risk of domestic violence, as defined in ORS 135.230;

(b) At risk of unwanted sexual contact, as defined in ORS 163.305;

(c) A person with disabilities, as defined in ORS 124.005, who is at risk of abuse, as defined in ORS 124.005(1)(a), (1)(d), or (1)(e);

(d) An elderly person, as defined in ORS 124.005, who is at risk of abuse, as defined in ORS 124.005(1)(a), (1)(d), or (1)(e); or

(e) A victim of stalking, as described in ORS 163.732.

(2) To establish that termination of local exchange residential service would significantly endanger the customer, or a person in the household of the customer, the customer must give the large telecommunications utility:

(a) A copy of an order issued under ORS 30.866, 107.700 to 107.732, 124.005 to 124.040, or 163.738 that restrains another person from contact with the customer, or a person in the household of the customer, at significant risk; or

(b) A copy of any other court order that restrains another person from contact with the customer, or a person in the household of the customer, due to a significant risk; and

(c) An affidavit signed by the customer stating that termination would place the customer, or a person in the household of the customer, at significant risk. The affidavit must include the name of the person to whom the court order applies, the relationship of the person to the customer, and the expiration date of the order.

(3) A large telecommunications utility must establish and maintain procedures for receiving affidavits and orders from customers.

(4) A customer submitting an affidavit and order under section (2) of this rule:

(a) Remains responsible for payment of telecommunication services provided by the large telecommunications utility; and

(b) Must enter into a time payment agreement with the large telecommunications utility pursuant to OAR 860-021-0575 if the customer has an overdue balance. This time payment agreement must be made within 10 days after submission of the affidavit and order.

(5) If a customer who has submitted an affidavit and order fails to enter into or abide by the terms of a time payment agreement pursuant to OAR 860-021-0575, the large telecommunications utility may disconnect local exchange service after complying with all provisions of OAR 860-021-0505. Five days' notice of

disconnection must also be provided to the Commission's Consumer Services Section.

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

Stats. Implemented: Ch.290, OL 2005

Hist.: PUC 4-2005 (Temp), f. 8-22-05 & ef. 9-1-05 (Order No. 05-927)

860-021-0575

Time Payment Agreements for Large Telecommunications Utilities

(1) A time payment agreement must contain, at a minimum, the following terms:

(a) An initial customer down payment of \$10 or 25 percent of the balance owing for tariffed or price-listed large telecommunications utility services on file with the Commission, whichever is greater;

(b) Full payment of the overdue balance within 90 days of the date of the agreement; and

(c) Customer agreement to keep subsequent bills current.

(2) The large telecommunications utility must send a letter to the customer confirming the terms of the time payment agreement.

(3) Payments must be made on a monthly basis. The large telecommunications utility cannot require more frequent payments unless agreed to by the customer. The customer cannot extend the time payment agreement beyond 90 days without the consent of the large telecommunications utility.

(4) The large telecommunications utility may not accelerate payments under a time payment agreement when the customer changes residences. The customer must pay tariff charges associated with the change in residence.

(5) The large telecommunications utility may terminate the customer's local exchange residential service pursuant to OAR 860-021-0505 if the customer refuses to enter into or fails to abide by the terms of the time payment agreement. The large telecommunications utility must provide five days' notice to the Commission's Consumer Services Section.

(6) Nothing in this rule prevents a large telecommunications utility and a customer from entering into a time payment agreement for other charges.

Stat. Auth.: ORS Ch. 183, 756, 759 & Ch. 290, OL 2005

Stats. Implemented: ORS 756.040, 757.750, 757.760, 757.755, Ch. 290, OL 1987 & Ch. 290, OL 2005

Hist.: PUC 3-1989, f. 2-6-89, cert. ef. 2-8-89 (Order No. 89-038); PUC 16-1990, f. 9-28-90, cert. ef. 10-1-90 (Order No. 90-1105); PUC 17-1997, f. 12-11-97 (Temp), ef. 1-1-98 (Order No. 97-469); PUC 5-1998, f. & ef. 3-13-98 (Order No. 98-058); PUC 16-2001, f. & ef. 6-21-01 (Order No. 01-488)

860-034-0270

Emergency Medical Certificate for Residential Utility Service

(1) A small telecommunications utility shall not disconnect local exchange residential service if the customer submits certification from a qualified medical professional stating

that disconnection would significantly endanger the physical health of the customer or a member of the customer's household. "Qualified medical professional" means a licensed physician, nurse-practitioner, or physician's assistant authorized to diagnose and treat the medical condition described without direct supervision by a physician.

(2) An oral certification must be confirmed in writing within 14 days by the qualified medical professional prescribing medical care. A written certification must include:

- (a) The name of the person to whom the certificate applies and relationship to the customer;
- (b) A complete description of the health conditions;
- (c) An explanation of how the person's physical health will be significantly endangered by terminating the utility service;
- (d) A statement indicating how long the health condition is expected to last;
- (e) A statement specifying the particular type of utility service required (for example, access to medical facility for telemonitoring); and
- (f) The signature of the qualified medical professional prescribing medical care.

(3) If an emergency medical certificate is not submitted in compliance with section (2) of this rule, the small telecommunications utility may disconnect local exchange service after providing five days' notice to the customer. The notice shall contain the information set forth in OAR 860-034-0260(3)(a) through (d) and shall be served as required by OAR 860-034-0260(4) and (5).

(4) An emergency medical certificate shall be valid only for the length of time the health endangerment is certified to exist, but no longer than six months without renewal.

(5) A customer submitting an emergency medical certificate:

(a) Remains responsible for payment of telecommunications services provided by the small telecommunications utility; and

(b) Must enter into a time payment agreement with the small telecommunications utility pursuant to OAR 860-034-0276 if the customer has an overdue balance. This time payment agreement must be entered into within 10 days after submission of the certificate. is not excused from paying for utility service. Customers are required to enter into a written time payment agreement with the small telecommunications utility within ten days after submitting the certificate when an overdue balance exists. Terms of the time payment agreement shall be those set forth in section (6) of this rule or such other terms as the parties agree upon in writing. Local exchange service is subject to termination if a customer refuses to enter into or abide by terms of a payment agreement.

~~(6) A small telecommunications utility may not disconnect local exchange residential service for nonpayment if a customer who has submitted a valid emergency medical certificate and:~~

~~(a) Pays the greater of \$10 or 25 percent of the balance owing for tariffed or price-listed utility services the small telecommunications utility has on file with the Commission, including:~~

~~(A) For a customer who is not eligible for OTAP, the amount overdue, existing late payment charges, any current bill, and any bill under preparation but not yet presented to the customer; or~~

~~(B) For a customer who is eligible for OTAP, the amount overdue, existing late-payment charges, any current bill, and any bill under preparation but not yet presented to the customer but excluding any toll charges or late payment charges attributable to toll charges.~~

~~(b) Enters into a time-payment agreement to bring the account into balance within 90 days of the date of the agreement; and~~

~~(c) Agrees to keep subsequent bills current.~~

~~(7) When good cause exists, the small telecommunications utility may provide, or the Commission may require, more liberal payment arrangements than those set forth in this rule after providing notice of the payment arrangements in section (6) of this rule. The small telecommunications utility shall keep a written record of the reasons for such action.~~

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~~(9) The small telecommunications utility and the customer may agree in writing to an alternate payment arrangement, provided the utility first informs the customer of the payment terms set forth in subsections (6)(a) through (6)(e) of this rule.~~

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~~(11) The small telecommunications utility shall not accelerate payments under a time-payment agreement when the customer changes residences. The customer must pay tariff charges associated with the change in residence.~~

~~(12) If a customer who has submitted an emergency medical certificate fails to enter into or abide by the terms of a time-payment agreement, the small telecommunications utility shall disconnect local exchange service after providing five days' notice to the customer and to the Commission's Consumer Services Division. The contents of the notice and manner of serving the notice are provided in section (3) of this rule. A hearing may thereafter be held to determine whether the small telecommunications utility should be permitted to disconnect utility service to the customer.~~

~~(136)~~ A small telecommunications utility may verify the accuracy of an emergency medical certificate. If the small telecommunications utility believes a customer does not qualify, or no longer qualifies for an emergency medical certificate, the utility may apply to the Commission for permission to disconnect utility service to the customer.

~~(147)~~ After notice to the Commission, a small telecommunications utility may terminate local exchange residential service if the utility providing the service lacks the technical ability to terminate toll telecommunications service without also terminating local exchange service.

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

Stats. Implemented: ORS 759.045 & Ch. 290, OL 1987

Hist.: PUC 6-1993, f. & ef. 2-19-93 (Order No. 93-185); PUC 17-1997, f. 12-11-97 (Temp), ef. 1-1-98 (Order No. 97-469); PUC 5-1998, f. & cert. ef. 3-13-98 (Order No. 98-058); PUC 15-2001, f. & cert. ef. 6-21-01 (Order No. 01-488)

860-034-0275

Termination of Local Exchange Residential Service for Telecommunications Customers at Significant Risk

(1) "At significant risk" means:

(a) At risk of domestic violence, as defined in ORS 135.230;

(b) At risk of unwanted sexual contact, as defined in ORS 163.305;

(c) A person with disabilities, as defined in ORS 124.005, who is at risk of abuse, as defined in ORS 124.005(1)(a), (1)(d), or (1)(e);

(d) An elderly person, as defined in ORS 124.005, who is at risk of abuse, as defined in ORS 124.005(1)(a), (1)(d), or (1)(e); or

(e) A victim of stalking, as described in ORS 163.732.

(2) To establish that termination of local exchange residential service would significantly endanger the customer, or a person in the household of the customer, the customer must give the small telecommunications utility:

(a) A copy of an order issued under ORS 30.866, 107.700 to 107.732, 124.005 to 124.040, or 163.738 that restrains another person from contact with the customer, or a person in the household of the customer, at significant risk; or

(b) A copy of any other court order that restrains another person from contact with the customer, or a person in the household of the customer, due to a significant risk; and

(c) An affidavit signed by the customer stating that termination would place the customer, or a person in the household of the customer, at significant risk. The affidavit must include the name of the person to whom the court order applies, the relationship of the person to the customer, and the expiration date of the order.

(3) A small telecommunications utility must establish and maintain procedures for receiving affidavits and orders from customers.

(4) A customer submitting an affidavit under section (2) of this rule:

(a) Remains responsible for payment of telecommunication services provided by the small telecommunications utility; and

(b) Must enter into a time payment agreement with the small telecommunications utility pursuant to OAR 860-034-0276 if the customer has an overdue balance. This time payment agreement must be made within 10 days after submission of the affidavit.

(5) If a customer who has submitted an affidavit and order fails to enter into or abide by the terms of a time payment agreement pursuant to OAR 860-034-0276, the small telecommunications utility may disconnect local exchange service after complying with all provisions of OAR 860-034-0260. Five days' notice of disconnection must also be provided to the Commission's Consumer Services Section.

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

Stats. Implemented: Ch. 290, OL 2005

Hist.: PUC 4-2005 (Temp), f. 8-22-05 & ef. 9-1-05 (Order No. 05-927)

860-034-0276

Time Payment Agreements for Small Telecommunications Utilities

(1) A time payment agreement must contain, at a minimum, the following terms:

(a) An initial customer down payment of \$10 or 25 percent of the balance owing for tariffed or price-listed small telecommunications utility services on file with the Commission, whichever is greater;

(b) Full payment of the overdue balance within 90 days of the date of the agreement; and

(c) Customer agreement to keep subsequent bills current.

(2) The small telecommunications utility must send a letter to the customer confirming the terms of the time payment agreement.

(3) Payments must be made on a monthly basis. The small telecommunications utility cannot require more frequent payments unless agreed to by the customer. The customer cannot extend the time payment agreement beyond 90 days without the consent of the small telecommunications utility.

(4) The small telecommunications utility may not accelerate payments under a time payment agreement when the customer changes residences. The customer must pay tariff charges associated with the change in residence.

(5) The small telecommunications utility may terminate the customer's local exchange residential service pursuant to OAR 860-034-0260 if the customer refuses to enter into or fails to abide by the terms of the time payment agreement. The small telecommunications utility must provide five days' notice to the Commission's Consumer Services Section.

(6) Nothing in this rule prevents a small telecommunications utility and a customer from entering into a time payment agreement for other charges.

Stat. Auth.: ORS Ch. 183, 756, 759 & Ch. 290, OL 2005

Stats. Implemented: ORS 756.040, 757.750, 757.760, 757.755, Ch. 290, OL 1987 & Ch. 290, OL 2005

Hist.: PUC 3-1989, f. 2-6-89, cert. ef. 2-8-89 (Order No. 89-038); PUC 16-1990, f. 9-28-90, cert. ef. 10-1-90 (Order No. 90-1105); PUC 17-1997, f. 12-11-97 (Temp), ef. 1-1-98 (Order No. 97-469); PUC 5-1998, f. & ef. 3-13-98 (Order No. 98-058); PUC 16-2001, f. & ef. 6-21-01 (Order No. 01-488)