

**PUBLIC UTILITY COMMISSION OF OREGON
INTEROFFICE CORRESPONDENCE**

DATE: January 7, 2009
TO: Bryan Conway
FROM: Celeste Hari
SUBJECT: Competitive Providers – Report to Legislature

ORS 759.050(9) requires the Public Utility Commission (PUC) to report annually to the Legislative Assembly regarding competition in the telecommunications industry in Oregon. This memo provides information that can be used for that report.

As background, the following may be helpful. The following line data is as of end of year 2007. There were a total of approximately 1,915,585 lines in the state of Oregon. This figure includes residential, business and wholesale lines. Within that number there are 34 incumbent local exchange carriers (i.e. ILECs or telecommunications utilities) serving approximately 1,605,911 lines in 264 exchanges in Oregon. This number has continuously dropped over the past few years. The reduction is presumed to be a result of customers dropping a second line in favor of DSL and cable service for Internet access and for simple economics. Another factor in the drop is attributed to the rise in cellular telecommunications.

The four largest ILEC's each serve more than 50,000 lines and are fully regulated utilities. They serve 1,475,000 lines, which is 77% of the total market. The other 30 incumbent carriers serve 130,911 lines with 7% of the lines, in 70 exchanges. Competitive local exchange carriers continue to obtain more customers with 309,674 lines and 16% of the market. While these overall numbers continue to drop, the percentage of market share varied little over the past year. Competitive local exchange carriers are often called CLECs. Small investor owned utilities, telephone cooperatives, and CLECs are exempt from many aspects of telecommunications regulation.

The PUC divides telecommunications services into two major groups. One group consists of private line services, also called non-switched or point-to-point or dedicated transmission services. These services may carry voice or data communications. They are offered in many bandwidths, or equivalent data speeds such as 56 kbps, 1.544 mbps, 10 mbps, 45 mbps, and 100 mbps. (kbps means thousand bits per second, mbps means million bits per second).

The other major group consists of switched services, also called dial-tone services. Switched services include the basic transmission of voice or data, vertical services like Call Waiting or Caller ID, enhanced services such as Voice Mail, and ancillary services such as operator

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assistance, directory assistance and directory listings. Basic residential service and basic business service reflect price differences for the same voice transmission service.

Private line service and switched service can be either intraexchange or interexchange service. Intraexchange telecommunications services are within a local exchange, in that communication originates and terminates within the exchange. Local exchanges are geographic areas defined by maps filed with and approved by the Commission. Interexchange telecommunications services are between local telephone exchanges. Interexchange voice service is also called long distance or toll service. Oregon law provides for different regulation of competition in the interexchange (long distance) market compared to regulatory procedures for competition in the intraexchange (local exchange) market.

PUC procedures differ between interexchange and intraexchange applications for certificates of authority. Applications for authority to provide interexchange (long distance) telecommunications service, both private line and switched service, are considered under ORS 759.020. Applications for authority to provide Shared Telecommunications Service (STS) to residential and business buildings or complexes of buildings are also considered under ORS 759.020. Competitive zones are not involved.

When the PUC receives an application for authority to provide intraexchange (local exchange) service, then those applications are considered under the Competitive Zone law, ORS 759.050. This applies to private line service and to switched (dial-tone) service. When the Commission grants an application to provide intraexchange service under ORS 759.050, the affected telephone exchanges are designated competitive zones for services authorized for the new competitor. Also, the PUC may grant the incumbent LEC pricing flexibility for those services.

There are two facets to a competitive zone. One is geographic, represented by local exchange boundaries. The other is the type of service, basically private line or switched. For example, suppose an applicant asks for a certificate of authority to provide private line service in the Medford exchange and the Commission grants the request. Qwest is the incumbent LEC that serves Medford. The PUC may grant Qwest pricing flexibility for private line services in the Medford exchange. The competitive zone is the Medford exchange for private line services. In this example, the Medford exchange is not a competitive zone for switched (dial-tone) services. Nor are other exchanges, such as Jacksonville, competitive zones for private line or switched services. Each exchange is a separate competitive zone.

PUC Response to ORS 759.050(9) (a) - (d):

ORS 759.020 and 759.050(9)(a) Number of Competitive zones:

A competitive zone is created when a certificate of authority to provide telecommunications is issued for a particular exchange. It means that telecommunications competition is permitted in that area. In 2000, the first certificates were issued for statewide intraexchange competitive telecommunications service. There are now 264 competitive zones for switched telecommunications service (dial-tone) and private line service. These competitive zones are in all telephone exchanges of every incumbent telephone provider in Oregon. This includes the small utilities and the cooperative corporations, as well as the four large ILECs.

Qwest, Verizon, CenturyTel, and United/Embarq have pricing flexibility for private line service in all of their exchanges. Pricing flexibility for switched service occurs when there is an actual exchange of traffic between an incumbent telecommunications provider and a competitive local exchange telecommunications provider. The incumbent notifies the Commission when the exchange of traffic occurs and then the Commission grants pricing flexibility. Qwest has pricing flexibility for switched service in all of its 64 exchanges. Verizon has pricing flexibility for switched service in 43 of its 44 exchanges. The small utilities and cooperative corporations already have pricing flexibility because of their regulatory status.

ORS 759.020 and 759.050(a)(b) Number of competitive providers:

The numbers in this section are for year end 2008. Applications and offsetting cancellations kept a fairly steady number of competitive providers over the past year. Not all providers are actually in operation but still maintain a certificate for business purposes. Many CLECs have authority to provide interexchange service and a few have authority to provide STS service to specific buildings. Therefore, the sum of the three kinds of authorization, shown below, is greater than the total number of competitive providers.

- 392: Total number of competitive telecommunications providers with certificates of authority to provide service in Oregon.
- 386: Authorized to provide interexchange toll, interexchange private line, alternate operator services (AOS), and inmate pay telephones.
- 13: Authorized to provide Shared Telecommunications Service (STS) to residential and business buildings and complexes of buildings.
- 206: CLECs authorized to provide intraexchange (local exchange) dial-tone service and private line service. Pursuant to ORS 759.050, competitive zones are created when these providers receive certificates of authority.

ORS 759.050(9)(c) Number of competitive services:

The PUC divides telecommunications service into two major groupings, private line service and switched service. Applicants specify private line and/or switched service on their applications, without giving more specifics. The PUC uses general descriptions so competitors, both incumbent LECs and competitive providers (CLECs), can respond to market demands and innovate or add new services without having to amend their certificates of authority.

Private line services include all bandwidths, or equivalent data speeds from very slow (16 kbps) to voice grade (56 kbps) to very high speeds (100 mbps). Private lines may be analog or digital service. The transmission medium may be copper wire, co-axial cable, microwave, or fiber optic.

Switched service includes basic voice transmission service and a host of associated features such as Call Forwarding, Call Waiting, Caller ID, Automatic Call Rejection, and Call Trace; plus enhanced services such as Voice Mail, and ancillary services such as operator services, collect calling, directory assistance, and directory listings. The Commission requires all local exchange carriers to provide access to E9-1-1 as part of switched local exchange service.

Each year the Commission conducts a survey of services provided by Oregon's incumbent and competitive local exchange carriers (i.e., ILECs and CLECs). The Commission prepares an annual report summarizing the results of each year's survey. The latest is the Local Telecommunications Competition Survey, 2008 Report. The Commission is providing the 2008 Report to the Legislative Assembly along with this memorandum to meet the requirements of ORS 759.050(9)(c). The 2008 Report is posted on the Commission's web site.

ORS 759.050(9)(d) Consumer Comments:

Competitive interexchange (long distance) carriers and Shared Telecommunications Service (STS) providers have been authorized in Oregon for over seventeen years. Competitive local exchange carriers (CLECs) have been authorized to provide private line service for many years. CLECs that offer switched (dial-tone) service have been authorized since January 1996.

The Public Utility Commission received a number of consumer contacts in 2008, as indicated below. Prior years' figures are shown for comparison. Contacts include: (a) Inquiries which may or may not have an element of a complaint behind them, (b) Informal complaints, and (c) Registered complaints. Very few of the complaints progress to the formal, docketed complaint stage.

	<u>CONSUMER CONTACTS</u>			
	<u>2008¹</u>	<u>2007²</u>	<u>2006³</u>	<u>2005</u>
Competitive telecommunications providers	708	1,075	2,938	2,978
Fully regulated telecommunication utilities	2,060	2,372	1,169	3,168
Partially regulated utilities	75	103	50	54
Other telecom (cooperatives and wireless)	349	576	399	821

The majority of consumer complaints in 2008 were for billing, service quality and customer service issues. Calls regarding wireless complaints, over which the Commission have very limited jurisdiction, are trending upward from 2007. Calls regarding cramming have increased while calls regarding slamming have decreased.

Competitive providers include interexchange toll carriers, STS providers, and competitive local exchange carriers (CLECs). Consumer inquiries and complaints cover many issues, such as:

- (a) Rates
- (b) Customer service
- (c) Slamming (unauthorized change of carrier)
- (d) Cramming (unauthorized services provided and added to bill)
- (e) Quality of service
- (f) Disconnect
- (g) Competitive options

With expanding competition in traditionally monopoly markets, the issues have become far more complex and solutions are less definite. Telecommunications complaints now often involve multiple providers instead of just one utility.

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¹ January through September 2008.

² Revised, 2007 Actuals.

³ The classification and tracking of incoming calls was changed in 2005.

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The Federal Communications Commission deregulated pay telephone service, including payphone service provided by incumbent telephone utilities. The FCC preempted the states on the payphone issue, and the Oregon PUC has no jurisdiction over pay telephone rates. Also, pursuant to state law, the PUC does not have jurisdiction over radio common carriers, such as wireless companies. AT&T, Verizon Wireless, and Sprint have unique status and are under an Assurance of Voluntary Compliance administered by the PUC for the Department of Justice.

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