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PERMANENT ADMINISTRATIVE ORDER

PUC 7-2024

CHAPTER 860

PUBLIC UTILITY COMMISSION

FILED

11/27/2024 7:36 AM  
ARCHIVES DIVISION  
SECRETARY OF STATE  
& LEGISLATIVE COUNSEL

FILING CAPTION: Amendment to OAR 860-032-0095(2)- Cap on annual fees (AR 664)

EFFECTIVE DATE: 11/27/2024

AGENCY APPROVED DATE: 11/26/2024

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AMEND: 860-032-0095

NOTICE FILED DATE: 02/13/2024

RULE SUMMARY: The proposed amendments to OAR 860-032-0095, raise the existing cap on annual fees to an amount not to exceed a maximum of thirty-five hundredths of one percent (0.35 percent) of a competitive telecommunications provider's utility's gross retail intrastate revenue.

CHANGES TO RULE:

860-032-0095

Annual Fees Payable to the Commission by a Competitive Provider ¶¶

- (1) On statement forms prescribed by the Commission, each competitive provider must provide the requested information for the subject year.¶¶
- (2) Each competitive provider must pay to the Commission an annual fee on gross retail intrastate revenue derived within Oregon at a rate determined by Commission orders entered on or before November 1 of each year.¶¶
- (a) A minimum annual fee of \$100. The annual fee is due on or before April 1 of the year after the calendar year on which the annual fee is based. The annual fee rate will not exceed ~~three tenths of one percent (0.3 percent)~~ the rate authorized in ORS 756.310 of the gross retail intrastate revenue during the calendar year on which the annual fee is based.¶¶
- (b) A late statement fee in accordance with OAR 860-011-0110, if the Commission has not received the competitive provider's statement form, completed in compliance with section (1) of this rule, on or before 5 p.m. Pacific Time on the fifth business day following the due date.¶¶
- (c) A penalty fee for failure to pay the full amount when due, as required under ORS 756.350 and OAR 860-032-0008(1).¶¶
- (d) A service fee in accordance with OAR 860-011-0110 for each payment returned for non-sufficient funds.¶¶
- (e) All costs incurred by the Commission to collect a past-due annual fee from the competitive provider.¶¶
- (3) The annual fee payment must be received by the Commission no later than 5 p.m. Pacific Time on the due date. A payment may be by cash, money order, bank draft, sight draft, cashier's check, certified, or personal check. A payment made by check will be conditionally accepted until the check is cleared by the bank on which it is drawn.¶¶
- (4) Each competitive provider must:¶¶
  - (a) Collect the annual fee by charging an equitable amount to each retail customer, using apportionment methods that are consistently applied by the competitive provider through Oregon, and¶¶

- (b) Describe the amount of the apportioned charge upon each retail customer's bill.¶
- (5) Each competitive provider must:¶
- (a) Maintain its records in sufficient detail to readily provide gross retail intrastate revenue from Oregon telecommunications services, as defined in OAR 860-032-0080;¶
- (b) Follow the revenue allocation procedures in OAR 860-032-0090; and¶
- (c) Make its revenue accounting records available to the Commission upon the Commission's request. A competitive provider must keep all records supporting each statement form for three (3) years, or until a Commission review or audit is complete, whichever is later.¶
- (6) For any year in which a competitive provider's statement form was due, the Commission may audit the competitive provider as the Commission deems necessary and practicable:¶
- (a) The Commission's audit must begin no later than three years after the statement form's due date. However, if the competitive provider failed to obtain a certificate of authority, an audit may occur at any time.¶
- (b) If the Commission determines that the competitive provider has underreported its subject revenues, the Commission may assess an additional annual fee, along with a penalty fee for failure to pay under ORS 756.350.¶
- (c) If the Commission determines that the competitive provider has overpaid its annual fee, the Commission may, at its discretion, recompense the competitive provider with a refund or a credit against annual fees subsequently due.¶
- (7) If the Commission receives a public record request for the confidential information required by this rule, the Commission may assert that, subject to the limitations of the Public Records Law, the materials are trade secrets and, therefore, exempt from disclosure.¶
- (8) A cooperative that is a competitive provider must pay an annual fee only on the gross retail intrastate revenue from telecommunications services that are provided under the cooperative's ORS 759.020 certificate of authority. A cooperative should not pay an annual fee on revenue from telecommunications services that are provided under the cooperative's 759.025 certificate of authority.
- Statutory/Other Authority: ORS 183, ORS 192, ~~756~~, ORS 756, ORS 759
- Statutes/Other Implemented: ORS 756.310, ORS 756.320, ORS 756.350