

Enrolled House Bill 2091

Introduced and printed pursuant to House Rule 12.00. Pre-session filed (at the request of House Interim Committee on Rural Communities, Land Use and Water)

CHAPTER

AN ACT

Relating to telecommunications carriers; amending ORS 759.425; and prescribing an effective date.

Be It Enacted by the People of the State of Oregon:

SECTION 1. ORS 759.425 is amended to read:

759.425. (1) **For purposes of this section, “retail telecommunications service” does not include radio communications service, radio paging service, commercial mobile radio service, personal communications service or cellular communications service.**

[(1)] (2)(a) The Public Utility Commission shall establish and implement a competitively neutral and nondiscriminatory universal service fund. [Subject to subsection (6) of this section,] **Except as provided in paragraph (b) of this subsection, the Public Utility Commission shall use the universal service fund to ensure basic telephone service is available at a reasonable and affordable rate. The Public Utility Commission may adopt rules to conform the universal service fund to section 254 of the federal Telecommunications Act of 1996 (Public Law 104-104), and to related [rules] regulations adopted by the Federal Communications Commission, to the extent that the Public Utility Commission determines conforming the rules is appropriate. [The commission may delay implementation for rural telecommunications carriers, as defined in the federal Act, for up to six months after the date the Federal Communications Commission adopts a cost methodology for rural carriers.]**

(b) In addition to using the universal service fund to ensure basic telephone service, the Public Utility Commission may use the universal service fund to encourage broadband service availability and to provide support to telecommunications carriers that provide both basic telephone service and broadband service.

[(2)(a)] (3)(a) The Public Utility Commission shall establish the price a telecommunications utility may charge its customers for basic telephone service. The commission [in its discretion] shall periodically review and evaluate the status of telecommunications services in the state and designate the services included in basic telephone service. The commission [in its discretion] shall periodically review and adjust as necessary the price a telecommunications utility may charge for basic telephone service.

(b) The provisions of this subsection do not apply to the basic telephone service provided by a telecommunications utility described in ORS 759.040.

[(3)(a)] (4)(a) The [Public Utility] commission shall establish a benchmark for basic telephone service as necessary for the administration and distribution of the universal service fund. The universal service fund shall provide explicit support to an eligible telecommunications carrier that is equal to the difference between the cost of providing basic telephone service and the benchmark,

less any explicit compensation received by the **telecommunications** carrier from federal sources specifically *[targeted to recovery of]* **used to recover** local loop costs and less any explicit support received by the **telecommunications** carrier from a federal universal service program.

(b) The commission *[in its discretion]* shall periodically review the benchmark **established under paragraph (a) of this subsection** and adjust *[it]* **the benchmark** as necessary to reflect:

(A) Changes in competition in the telecommunications industry;

(B) Changes in federal universal service support; and

(C) Other relevant factors as determined by the commission.

(c) Except for a telecommunications utility described in ORS 759.040, the commission shall seek to limit the difference between the price a telecommunications utility may charge for basic telephone service and the benchmark.

[(4)] **(5)** *[Except as provided in subsections (7) and (8) of this section,]* There is imposed on the sale of all retail telecommunications services sold in this state a universal service surcharge. Unless otherwise provided by the *[Public Utility]* commission by rule, the **universal service** surcharge *[shall]* **must** be a uniform percentage of the sale of retail telecommunications services in an amount sufficient to support the *[purpose]* **purposes** of the universal service fund **established under subsection (2) of this section, provided that the percentage does not exceed 8.5 percent of the sale of retail telecommunications services.** The **universal service** surcharge may be *[shown]* **listed** as a separate line item by all telecommunications carriers *[using language]*, **as** prescribed by the commission **by rule or order.** A telecommunications carrier shall *[deposit]* **transmit** amounts collected *[into the universal service fund according to]* **pursuant to this section to the commission in accordance with** a schedule adopted by the commission. **The commission shall deposit moneys transmitted to the commission pursuant to this subsection in the universal service fund established under subsection (2) of this section.**

[(5)] **(6)** *[The Public Utility Commission is authorized to establish a universal service fund,]* **The universal service fund established under subsection (2) of this section is** separate and distinct from the General Fund. The **universal service** fund shall consist of all universal service surcharge moneys collected by telecommunications carriers and *[paid into]* **transmitted to the commission for deposit in the universal service fund.** The **universal service** fund *[shall]* **may** be used only for the *[purpose]* **purposes** described in this section[,] and for payment of expenses incurred by the commission or a third party appointed by the commission to administer this section. All moneys in the **universal service** fund are continuously appropriated to the commission to carry out the provisions of this section. Interest on moneys deposited in the **universal service** fund shall accrue to the **universal service** fund.

[(6)] *In addition to the purpose specified in subsection (1) of this section, moneys in the universal service fund may be used by the Public Utility Commission to survey or map the state to determine where adequate broadband services are available. The amount of moneys in the universal service fund used for this purpose may not exceed the amount the state is required to expend to receive the maximum amount of funds available from federal sources for broadband services. If in-kind services are allowed for a state's share of a mapping project, the state shall use in-kind services before expending universal service funds. The commission may use an independent contractor to perform mapping services.]*

[(7)] *For purposes of this section, "retail telecommunications service" does not include radio communications service, radio paging service, commercial mobile radio service, personal communications service or cellular communications service.]*

[(8)(a)] *Notwithstanding subsection (7) of this section, a person who primarily provides radio communications service, radio paging service, commercial mobile radio service, personal communications service or cellular communications service may request designation as an eligible telecommunications carrier by the Public Utility Commission for purposes of participation in the universal service fund.]*

[(b)] *In the event a person who primarily provides radio communications service, radio paging service, commercial mobile radio service, personal communications service or cellular communications service seeks designation as an eligible telecommunications carrier for purposes of participation in the universal service fund, the person shall provide written notice to the Public Utility Commission re-*

requesting designation as an eligible telecommunications carrier within 60 days of the date the commission establishes the fund. Upon receiving notice, the commission may designate the person as an eligible telecommunications carrier for purposes of participation in the fund.]

[(c) A person who primarily provides radio communications service, radio paging service, commercial mobile radio service, personal communications service or cellular communications service who fails to request designation as an eligible telecommunications carrier within 60 days of the date the universal service fund is established by the Public Utility Commission may not be designated as an eligible telecommunications carrier unless the person has contributed to the fund for at least one year immediately prior to requesting designation.]

(7) A person that primarily provides radio communications service, radio paging service, commercial mobile radio service, personal communications service or cellular communications service may request designation as an eligible telecommunications carrier by the commission for purposes of this section if the person imposes the universal service surcharge described in subsection (5) of this section and transmits the moneys collected to the commission for deposit in the universal service fund established under subsection (2) of this section for at least one year immediately prior to requesting the designation.

[(9)] (8) A pay telephone provider may apply to the [Public Utility] commission, on a form developed by the commission, for a refund of the universal service surcharge imposed on the pay telephone provider under subsection [(4)] (5) of this section for the provision of pay telephone service.

SECTION 2. This 2017 Act takes effect on the 91st day after the date on which the 2017 regular session of the Seventy-ninth Legislative Assembly adjourns sine die.

Passed by House March 14, 2017

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Timothy G. Sekerak, Chief Clerk of House

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Tina Kotek, Speaker of House

Passed by Senate May 2, 2017

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Peter Courtney, President of Senate

Received by Governor:

.....M.,....., 2017

Approved:

.....M.,....., 2017

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Kate Brown, Governor

Filed in Office of Secretary of State:

.....M.,....., 2017

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Dennis Richardson, Secretary of State