

Enrolled
House Bill 2192

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CHAPTER

AN ACT

Relating to broadband services; amending ORS 759.425.

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

SECTION 1. ORS 759.425 is amended to read:

759.425. (1) The Public Utility Commission shall establish and implement a competitively neutral and nondiscriminatory universal service fund. Subject to subsection (6) of this section, the 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 adopted by the Federal Communications Commission, to the extent that the Public Utility Commission determines 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.

(2)(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) 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 carrier from federal sources specifically targeted to recovery of local loop costs and less any explicit support received by the carrier from a federal universal service program.

(b) The commission in its discretion shall periodically review the benchmark and adjust it 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) 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 surcharge shall be a uniform percentage of the sale of retail telecommunications services in an amount sufficient to support the purpose of the universal service fund. The surcharge may be shown as a separate line item by all telecommunications carriers using language prescribed by the commission. A telecommunications carrier shall deposit amounts collected into the universal service fund according to a schedule adopted by the commission.

(5) The Public Utility Commission is authorized to establish a universal service fund, separate and distinct from the General Fund. The fund shall consist of all universal service surcharge moneys collected by telecommunications carriers and paid into the fund. The fund shall be used only for the purpose 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 fund are continuously appropriated to the commission to carry out the provisions of this section. Interest on moneys deposited in the fund shall accrue to the 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 *[facilitate the availability of broadband at fair and reasonable rates throughout this state]* **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 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.

(9) 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 provider under subsection (4) of this section for the provision of pay telephone service.

Passed by House March 3, 2011

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Ramona Kenady Line, Chief Clerk of House

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Bruce Hanna, Speaker of House

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Arnie Roblan, Speaker of House

Passed by Senate May 17, 2011

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Peter Courtney, President of Senate

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.....M,....., 2011

Approved:

.....M,....., 2011

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John Kitzhaber, Governor

Filed in Office of Secretary of State:

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Kate Brown, Secretary of State