
WARM SPRINGS TELECOMMUNICATIONS COMPANY

October 25, 2010

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Oregon Public Utility Commission
PO Box 2148
Salem, OR 97308

RE: UM 1481 - Investigation of the Oregon Universal Service Fund

Opening Comments of the Warm Springs Telecommunications Company

Dear Commission:

Enclosed for filing please find an original and one copy of the WSTC's Opening comments in Docket Number UM 1481.

Thank you for your concern in this matter.

Sincerely,

Marsha Spellman
Regulatory Director, WSTC

PO Box 910
Warm Springs
Oregon
97761

PHONE (541) 553-3565
FAX (541) 553- 2275
E-MAIL marsha.spellman@warmspringstelecom.com
Website www.warmspringstelecom.com

telephone infrastructure throughout American. The job is not done while there are still unserved and underserved areas of this country.

To this end, we are concerned about a number of issues that have been raised in the past UM 1481 workshops that have a direct impact on both the Tribes and WSTC. We are primarily concerned about any changes to OUSF that will impact the ability of WSTC to secure OUSF support to build-out new infrastructure for this high-cost area. Without such support, the WSTC will not be able to cost-justify the capital investment necessary to bring the Tribes, its members, critical facilities and businesses the basic and advanced telecommunications services that have been lacking for so long. In addition we are concerned about:

- Limiting ETC status to one company.
- Ensuring that funding to go to the communities for which the funding was received.
- Ensuring that the USF funding continues for communities that still don't have parity with the phone and broadband services enjoyed by the majority of Oregon.
- Specific issues regarding tribal nations and the PUC.

ISSUES

1. NEED FOR OUSF

WSTC believes strongly that the OUSF is still relevant as a funding mechanism for building telecommunications in rural and underserved areas of the state. While it has been argued that telephone service is no longer an issue and that all Oregonians have access to telephone service, this is in fact not the case for Tribal members. Not everyone has basic telephone service. Because companies continue to build-out and enhance networks to support broadband and basic phone service, the support for all network services is still relevant.

2. CURRENT OUSF

The goal of OUSF as identified in ORS 759.425 has not been met in all communities throughout Oregon. The reservation of the Confederated Tribes of Warm Springs is one such example. At most, 65% of residents have access to basic telephone service.

While Oregon likes to be ahead of the curve when it comes to regulatory improvements, we question whether the 1481 proceeding, which will be significant in terms of the funding issues, is necessary at this time. Many of the companies who get OUSF funding also get USF funding. These companies rely on federal USF support to pay back their RUS loans. This has been an underlying basis of high-cost telecommunications funding since the Telecom Act of 1934 first promulgated the federal policy of providing affordable and modern telecommunications to all Americans. We believe that it is

prudent to wait to see how the federal government determines this fund to be used, and then for Oregon to see how to best use its Oregon fund to support the federal fund, and fill in the gaps that perhaps the changes to the federal fund will create.

3. FUTURE OBJECTIVES OF OUSF

The fund should still be required to meet the original goals of OUSF, to ensure that all Oregonians have access to basic telephone service at a reasonable cost. While many argue that this is becoming a legacy service, that new cell providers or broadband IP telephone service will replace basic POTS services, it is still the underlying network and access to telephone service that should be a priority to fund. As there still is not parity for basic telephone service, it is premature to de-fund companies who are upholding the objectives of universal service and are reaching the underserved. Beyond basic phone service, These networks are also needed to enable fiber to the tower (FTT) for cell service and broadband access for the community at large.

Companies who provide service to the underserved and rural communities should still be the top priority. While Broadband is the utility of the future, and it is critical that this basic infrastructure becomes ubiquitous like phone and electricity has become across the USA, it is still those communities that are not urban or suburban that require additional funding to reach out to their subscribers. Whether it is for telephone or broadband, the cost of the networks and the delivery of service to the home are still far more expensive for rural providers than the urban/suburban providers.

We do not believe that a customer voucher system is the appropriate means to address any inequities in the service costs. We must retain the objective that basic service charges are identical for telecommunications customers no matter where they live in Oregon. Any across the board rate increases to the end-user can be addressed through mechanisms already in place, such as federal Life-line service support .

Wireless networks are now central to the telecommunications choices of most people. It is integral to what we consider to be telecommunications technologies. But it is still a limited application that is not competitive to a fiber-based, wire-line service. Fiber based networks are essential to offering new broadband applications. While wireless networks represent critically important infrastructure, it is still the wire to the home that will be the network of the future. Without guaranteeing a fiber-based wireline service for everyone, there will always be a lack of equality since wireless cannot bring the broadband network that a fiber network will provide.

Therefore, we believe that to bring parity to those communities still with limited basic telephone as well as limited or non-existent broadband service, this fund should help support those same companies in rural communities that are committed to providing new broadband services to the home, businesses and critical facilities.

4. FUTURE SIZE OF THE FUND

The size of the fund should be large enough to build out the communities in Oregon that need to be built out with advanced fiber networks, and are lacking in density for the existing providers to cost-justify without additional funding support to do so. No ceiling or maximum should be established without understanding the actual cost of provisioning services.

5. FUTURE REQUIREMENTS FOR RECEIVING MONEY

Companies who receive money from the fund should do so based on a cost analysis, similar to that of the federal USF funding. This would include a cost study to determine the actual cost of providing service. Any additional broadband fund, similar to the ARRA fund, could be established separate from the OUSF funding. Recipients of any OUSF funding should be required to re-invest the support they receive into the local operation or network. OUSF recipients should also be required to regularly document such investment in reports to the Commission.

6. FUTURE REQUIREMENTS: COMPANY, CUSTOMER OR SPECIFIC GEOGRAPHIC AREA

Companies who receive OUSF funding should be funded based on the specific need of a geographical area. Areas that lack density clearly lack telecommunications services without the additional funding provided by USF and OUSF. Companies that serve rural areas and are committed to those communities do the best in providing ubiquitous service, as well as upgrading their networks in order to provide state of the art networks delivering advanced services. These companies must continue to receive support if broadband networks are to be built and upgraded throughout the state of Oregon. In addition, new companies that build out in unserved areas should also be considered for funding if they agree to serve all customers in a serving area.

7. FUTURE ACCOUNTABILITY

Rural areas that are served by companies that are not committed to the rural community typically are the worst served. If the fund is to give money to any company to provide service in an underserved area, then the company must commit to providing

service to the entire serving area for which the money is provided. This will avoid any cherry picking, where the provider only upgrades network where customer density is higher and can be cost-justified. At this time, there are no regulatory provisions requiring a company that receives OUSF funding for a particular area to spend the money for that area. In fact, there is no provision requiring that company to spend the money within the state of Oregon. These shortcomings must be rectified whether or not there are major changes to the OUSF fund.

8. FUTURE LOOK AT CARRIER OF LAST RESORT (COLR) OBLIGATIONS

Companies that are granted ILEC /ETC status have an obligation to serve all customers in that area. Companies that receive OUSF funding should have additional requirements to serve all customers in that area without customers having to endure excessively high line extension charges. The OUSF funding should be considered as the funding that enables companies in rural areas to build out in communities with low density, without additional non-recurring, line extension charges to the end-user. OUSF is the funding that compensates companies for shouldering the obligation to serve all, including those in low density, rural communities.

The “carrier of last resort” has been an important concept in building out the public telephone network throughout this country. We believe that it should continue to be an important concept into the future. As new broadband networks become even more important in the future, those that are left out will be lacking more than just basic telephone service. Without accessible broadband services, they will also be left out of educational opportunities, basic future healthcare, economic options and more..

Companies with COLR obligations have not had the requirement to build out to remote residents without residents having to carry the burden of extremely high line extension fees, fees that no customer in an urban/suburban area would ever consider paying for a basic telephone. In fact, COLR companies do not have a requirement to serve everyone in their serving area even though they receive OUSF funding. It is critical that this does not continue to happen and that future OUSF funding be specifically targeted to underwriting the cost of line-extensions to remote residents. COLR requirements are critical to providing future services to everyone, and funding to do this must be part of the solution.

9. FUTURE BROADBAND DEPLOYMENT

Yes, a company receiving OUSF funding, either from a “broadband fund” or just the OUSF fund as it exists today, must commit to providing a broadband network. The question becomes, what is broadband? Is broadband the fiber backbone necessary for broadband services? Is it the DSL or Cable modem equipment? Or is it service based, as an ISP might provide?

This is the difficulty of changing from an OUSF fund, which built out the telephone network, to a broadband fund. However, the issue becomes how to fund underserved and unserved communities. In areas where there is little or no broadband, the idea of creating a fund to build out broadband seems reasonable. How to do this and not hurt the companies that are already building out in underserved and rural communities is a concern. Perhaps a second fund should be created, one that is dedicated just to building out broadband networks in underserved communities.

There should also be a measurement to determine accuracy of advertised speeds. Companies who receive funding must agree to a speed, but that advertised speed must be truthful and accurate. Today, companies can advertise that there is service in an area, and that the service is at an advertised speed, but that is not necessarily accurate. If we are going to have parity in telecommunications services across this state, then setting a standard that can be guaranteed for all is a critical piece of this.

10. FUTURE LOOK AT COMPANIES RECEIVING SUPPORT

Companies that receive support should continue to be those companies that are committed to building fiber based networks in communities that are underserved. Since not all companies will get support, it should be based on companies that are serving communities that are both underserved and under populated.

Companies that receive support should not be allowed to charge line extension charges since the money from the fund should be designated to build out networks in high cost areas, including line-extensions to remote residents.

Companies that historically have received funding should continue to receive funding only if they are committed to spending all the money received on the particular wire center for which the high-cost support is targeted in order to improve services, both basic telephone as well as broadband.

Any company receiving OUSF support should be required to provide the same level of advanced service to all its customers. Poorer or more rural communities should not be disadvantaged simply because it costs more to service these communities.

11. FUTURE LEVEL OF SUPPORT

Support should be determined through a cost analysis based on the actual cost to provision service in an area, as compared to some average rate to be determined. The average rate will be the rate in a relatively populated area. The fund should help the companies who commit to serving everyone in an area, as a COLR, and should subsidize the difference between the average cost and the actual cost of providing that service.

Any unsubsidized competitor who commits to building a network in an area with a previously funded company that is providing service in an area, and that competitor agrees to provide service to every customer in the area, and builds a network without using the facilities of the underlying subsidized carrier, should be able to collect funding from the OPUC OUSF fund in lieu of the initial subsidized carrier.

12. FUTURE FUNDING

All telecommunications service providers, including wireline, wireless, cable operators, should be required to pay into the fund. Each customer will be charged the same per line as all other customers, and this should go into an OUSF fund.

13. TRANSITIONING OF THE FUND

Transitioning to a new fund should not hurt the small companies that presently receive OUSF funding. These companies have been the backbone providers throughout the state, and the state PUC should be encouraging these companies to grow, to continue to provide their customers with the best service possible. In addition, in determining how to transition the fund to a broadband fund, Oregon should not damage the ability of the companies who depend on this money to repay their RUS loans that have enabled telecommunications to be developed in the rural areas of Oregon.

14. TRIBAL LANDS

Tribal lands are unique in their relationship to the state of Oregon. They are also unique in that most of all tribal lands are significantly underserved or unserved as compared to non-tribal lands. This is true in Oregon as well as throughout the USA. As such, it is imperative that tribal lands have special recognition. As an example, only

65% of residents living on the Reservation of the Confederated Tribes of Warm Springs have access to basic telephone service.

Should a tribe become its own telecommunications provider on a reservation, and it elects to be regulated by OPUC, then it should be eligible to receive OUSF support, provided that the tribally owned company agrees to file for their telecommunications status with the OPUC and agrees to provide service to all customers connected to a wire center. A tribe should then be eligible for ETC status to enable the tribal telecom to receive OUSF funding.

In addition, when a provider on tribal lands does not provide adequate service, there must be a process in place for the tribal council to work with the OPUC to compel a company to provide adequate service, if that is the choice of the Tribal Council. See ORS 759.03

Certificate of Service

UM 1481

Opening Comments

I certify that I have this day served the foregoing document upon all parties of record in this proceeding by delivering a copy in person or by mailing a copy properly addressed with first class postage, prepaid, or by electronic mail pursuant to OAR 860-13-0070

Dated this day, October 25, 2010, in Portland, OR.

**Warm Springs Telecommunications Company
PO Box 910
Warm Springs, OR 97761
503-997-1685**

Marsha Spellman

Regulatory Director

UM 1481
Service List (Parties)

CHARLES L BEST (W) ATTORNEY AT LAW	1631 NE BROADWAY #538 PORTLAND OR 97232-1425 chuck@charleslbest.com
AT&T CYNTHIA MANHEIM (W)	PO BOX 97061 REDMOND WA 98052 cindy.manheim@att.com
AT&T COMMUNICATIONS OF THE PACIFIC NORTHWEST INC DAVID COLLIER(W)	645 E PLUMB LN PO BOX 11010 RENO NV 89502 david.collier@att.com
AT&T SERVICES, INC. SHARON L MULLIN (W) DIRECTOR--EXTERNAL AFFAIRS	400 W 15TH ST, STE 930 AUSTIN TX 78701 smullin@att.com
ATER WYNNE LLP ARTHUR A BUTLER (W)	601 UNION STREET, STE 1501 SEATTLE WA 98101-3981 aab@aterwynne.com
ROGER T DUNAWAY	601 UNION STREET, STE 1501 SEATTLE WA 98101-3981 'rtd@aterwynne.com'
CENTURYLINK, INC. WILLIAM E HENDRICKS (W) ATTORNEY	805 BROADWAY ST VANCOUVER WA 98660-3277 tre.hendricks@centurylink.com
CITIZENS' UTILITY BOARD OF OREGON GORDON FEIGNER (W) ENERGY ANALYST	610 SW BROADWAY, STE 400 PORTLAND OR 97205 gordon@oregoncub.org
ROBERT JENKS EXECUTIVE DIRECTOR	610 SW BROADWAY, STE 400 PORTLAND OR 97205 bob@oregoncub.org
G. CATRIONA MCCrackEN LEGAL COUNSEL/STAFF ATTY	610 SW BROADWAY, STE 400 PORTLAND OR 97205 catriona@oregoncub.org
RAYMOND MYERS ATTORNEY	610 SW BROADWAY, STE 400 PORTLAND OR 97205 ray@oregoncub.org

<p>KEVIN ELLIOTT PARKS STAFF ATTORNEY</p>	<p>610 SW BROADWAY, STE 400 PORTLAND OR 97205 kevin@oregoncub.org</p>
<p>COMCAST BUSINESS COMMUNICATIONS LLC</p> <p>DOUG COOLEY GOVERNMENT AFFAIRS MANAGER</p>	<p>1710 SALEM INDUSTRIAL DRIVE NE SALEM OR 97303 doug_cooley@cable.comcast.com</p>
<p>CONVERGE COMMUNICATIONS</p> <p>MARSHA SPELLMAN</p>	<p>10425 SW HAWTHORNE LN PORTLAND OR 97225 marsha@convergecomm.com</p>
<p>DAVIS WRIGHT TREMAINE LLP</p> <p>MARK P TRINCHERO</p>	<p>1300 SW FIFTH AVE STE 2300 PORTLAND OR 97201-5682 marktrinchero@dwt.com</p>
<p>DEPARTMENT OF JUSTICE</p> <p>MICHAEL T WEIRICH ASSISTANT ATTORNEY GENERAL</p>	<p>BUSINESS ACTIVITIES SECTION 1162 COURT ST NE SALEM OR 97301-4096 michael.weirich@doj.state.or.us</p>
<p>EMBARQ COMMUNICATIONS INC</p> <p>BARBARA YOUNG (W) STATE EXECUTIVE - OR & WA</p>	<p>902 WASCO ST - ORHDRA0305 HOOD RIVER OR 97031-3105 barbara.c.young@centurylink.com</p>
<p>FRONTIER COMMUNICATIONS NORTHWEST INC</p> <p>RENEE WILLER EXTERNAL AFFAIRS MANAGER</p>	<p>20575 NW VON NEUMANN DR BEAVERTON OR 97006-6982 renee.willer@ftr.com</p>
<p>FRONTIER COMMUNICATIONS OF AMERICA</p> <p>JACK PHILLIPS (W)</p>	<p>14450 BURNHAVEN DR BURNSVILLE MN 55306 jack.phillips@frontiercorp.com</p>
<p>FRONTIER COMMUNICATIONS OF AMERICA INC</p> <p>INGO HENNINGSEN (W) MANAGER, GOVERNMENT & EXTERNAL AFFAIRS</p>	<p>4064 LISA DR SALT LAKE CITY UT 84124-2118 ingo.henningsen@frontiercorp.com</p>
<p>GVNW CONSULTING INC</p> <p>JEFFRY H SMITH VICE PRESIDENT & DIVISION MANAGER</p>	<p>8050 SW WARM SPRINGS - STE 200 TUALATIN OR 97062 jsmith@gvnw.com</p>

GVNW INC CARSTEN KOLDSBAEK CONSULTING MANAGER	8050 SW WARM SPRINGS RD TUALATIN OR 97062 ckoldsbaek@gvnw.com
INTEGRA TELECOM OF OREGON INC DOUGLAS K DENNEY (W)	6160 GOLDEN HILLS DR GOLDEN VALLEY MN 55416-1020 dkdenney@integratelecom.com
INTEGRA TELECOM, INC. THEODORE N GILLIAM (W) SENIOR CORPORATE COUNSEL	1201 NE LLOYD BLVD STE 500 PORTLAND OR 97232 tgilliam@integratelecom.com
LAW OFFICE OF RICHARD A FINNIGAN RICHARD A FINNIGAN ATTORNEY AT LAW	2112 BLACK LAKE BLVD SW OLYMPIA WA 98512 rickfinn@localaccess.com
OREGON CABLE AND TELECOMMUNICATIONS ASSOCIATION MICHAEL DEWEY EXECUTIVE DIRECTOR	1249 COMMERCIAL ST SE SALEM OR 97302 mdewey@oregoncable.com
OREGON EXCHANGE CARRIER ASSN CRAIG PHILLIPS	800 C ST VANCOUVER WA 98660 cphillips@oeca.com
OREGON TELECOMMUNICATIONS ASSN BRANT WOLF EXECUTIVE VICE PRESIDENT	777 13TH ST SE - STE 120 SALEM OR 97301-4038 bwolf@ota-telecom.org
PUBLIC UTILITY COMMISSION OF OREGON ROGER WHITE PROGRAM MANAGER	PO BOX 2148 SALEM OR 97308 roger.white@state.or.us
QWEST CORPORATION MARK REYNOLDS	1600 7TH AVE RM 3206 SEATTLE WA 98191 mark.reynolds3@qwest.com
ADAM L SHERR	1600 7TH AVE RM 1506 SEATTLE WA 98191 adam.sherr@qwest.com

VERIZON MILT H DOUMIT DIRECTOR--STATE GOVT. RELATIONS	410 -- 11TH AVE. SE, SUITE 103 OLYMPIA WA 98501 milt.h.doumit@verizon.com
VERIZON CORPORATE SERVICES THOMAS F DIXON ASST GENERAL COUNSEL	707 17TH ST #4200 DENVER CO 80202 thomas.f.dixon@verizon.com
WSTC ADAM HAAS	10425 SW HAWTHORNE LN PORTLAND OR 97225 adamhaas@convergecomm.com