



October 25, 2010

VIA ELECTRONIC MAIL AND U.S. MAIL

Filing Center
Oregon Public Utility Commission
PO Box 2148
Salem, OR 97308-2148

Re: UM 1481 – Comments from the Oregon Cable Telecommunications Association

Enclosed are the Comments from the Oregon Cable Telecommunications Association (OCTA) regarding the matter of investigation into the Universal Service Fund.

Mike Dewey
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Enclosure

cc: Service List

**BEFORE THE PUBLIC UTILITY COMMISSION
OF OREGON**

In the Matter of

PUBLIC UTILITY COMMISSION OF
OREGON Staff Investigation of the Oregon
Universal Fund.

UM 1481

**COMMENTS OF THE
OREGON CABLE TELECOMMUNICATIONS ASSOCIATION**

October 25, 2010

The Oregon Cable Telecommunications Association is comprised of Oregon cable operators, including but not limited to Comcast, Charter, Wave Broadband, Cable One, Bend Broadband and Crestview Cable. In addition to our state of the art video and voice services, Oregon cable companies are the leading providers of residential broadband services and their business services continues to thrive with increased speeds, new services and competitive prices. Since 1996, cable operators have invested over \$145 billion in new facilities serving small, urban and rural markets throughout the United States.

On April 14, 2010, the Oregon Public Utility Staff recommended opening a docket to investigate the Oregon Universal Service Fund (OUSF) - (UM 1481). Staff recommended this docket based on changes in technology, with the possibility of Federal Communications Commission changes to the federal USF program in a National Broadband Plan. Staff recommend the Commission explore changing from wireline support to broadband support and consider intrastate access reform as a part of the docket.

Three workshops were held, resulting in seventy-eight (78) issues for parties to potentially address in comments, with the understanding that not all issues need to be addressed. In addition to supporting the more detailed comments provided by Comcast, one of our member companies, the OCTA would like to address a few of the key issues.

ISSUES LIST – Question 13 “Can the Commission verify today that the OUSF money provided to companies has historically been spent for the intended purposes?”

OCTA recommends that the Commission initiate a complete review and audit of the current OUSF program.

In the staff report on April 14, 2010, recommending a USF investigation, under the category “Changes in Technology”, the opening sentence reads as follows “The Commission has not investigated the performance and operation of the OUSF since its inception almost 15 years ago.” As a threshold matter, OCTA submits there should be no significant change to or expansion of the current OUSF program until the Commission has reviewed and identified precisely how historical high-cost support disbursements from the OUSF have been spent by the various telephone companies, large and small. This is especially important due to the magnitude of the fund. In 2009, Qwest received \$21,178,000, Verizon received \$14,343,000, and Century Link received \$2,937,000, with the remaining support going to other telephone companies. While Qwest and Verizon received a small portion of the federal USF dollars, medium and small telephone companies received a substantial portion of the federal subsidy. Additionally, with Frontier having purchased Verizon assets and CenturyLink in the process of purchasing Qwest, as part of the PUC review there should be a determination on how both Frontier and CenturyLink plan to spend future OUSF moneys, if available. Since Oregon telephone customers are ultimately responsible for contributing to the OUSF, a comprehensive review/audit of the entire program will help resolve if millions of dollars are being spent prudently and if those expenditures are still justified.

When the OUSF fund was created, telephone companies receiving support were not broadband service providers. Today, almost all of the companies receiving support are providing broadband and other services to their customers, which provide a significant source of revenue. And, the OUSF support has likely helped pay for the networks that provide those services. As part of the PUC review, there should be an analysis of how the new revenues, broadband and video, have affected the financial stability of OUSF recipients.

Any review of the current OUSF program must take into consideration the federal broadband stimulus program enacted by Congress. Congress allocated \$7.2 billion for broadband projects, distributed by NTIA and RUS. Some telephone companies receiving OUSF support are now also recipients of the federal funding which may require a change in how current OUSF dollars are allocated.

The OTCA is aware the FCC has proposed to reform the FUSF, including: (a) reducing existing high-cost support, *i.e.*, capping high-cost support at 2010 levels; (b) eliminating or freezing other forms of ILEC support; and (c) eliminating support for competitive ETCs.¹ Additionally, through

¹ See *Connect America Fund Notice and NPRM* at ¶¶ 24, 53-62.

its National Broadband Plan, released in March 2010, which sets forth a “long range goal ... to replace all of the legacy High-Cost programs with a new program that preserves the connectivity that Americans have today and advances universal broadband in the 21st century,”² the FCC is considering how to subsidize broadband services.³ The National Broadband Plan recommends that the FCC create a new “Connect America Fund” (“CAF”), which, the FCC states, should adhere to the following principles:

(1) “CAF should only provide funding in geographic areas where there is no private sector business case to provide broadband and high-quality voice-grade service;”

(2) “There should be at most one subsidized provider of broadband per geographic area;”

(3) “The eligibility criteria for obtaining broadband support from CAF should be company - and technology agnostic so long as the service provided meets the specifications set by the FCC;”

(4) “The FCC should identify ways to drive funding to efficient levels, including market-based mechanisms where appropriate, to determine the firms that will receive CAF support and the amount of support they will receive;” and

(5) “Recipients of CAF support must be accountable for its use and subject to enforceable timelines for achieving universal access.”⁴

In addition, the National Broadband Plan recommends that the FCC “create a fast-track program in CAF for providers to receive targeted funding for new broadband construction in unserved areas.”⁵ The FCC has not yet determined the funding mechanisms for implementing the National Broadband Plan, and the terms “unserved” and “underserved,” both of which are used by the National Broadband Plan to refer to geographic areas or households where there is a need for broadband services, have yet to be defined in detail by the FCC.⁶ Moreover, the transitions proposed by the National Broadband Plan are to be phased-in over a ten (10) year period.⁷

² National Broadband Plan at p. 145.

³ See *Connect America Fund Notice and NPRM* at ¶¶ 24, 53-62.

⁴ National Broadband Plan at p. 145 (footnotes omitted).

⁵ *Id.* at p. 144.

⁶ See, however, footnote 10 of this Appendix, *supra*.

⁷ The National Broadband Plan sets forth the following timetable:

Create CAF and (one-time wireless 3G network) Mobility Fund (2010-2011);
Broaden FUSF contribution base (2012-2016);
Reform inter-carrier compensation (2012-2020);
Transition high cost fund to CAF (2017-2020); and
FUSF to be based at 2010 levels (2017-2010).

In light of these federal developments, which may significantly affect revenues available to Oregon carriers for USF and broadband subsidy purposes, OCTA recommends that any review conducted must be coordinated and consistent with these federal measures. The OCTA does not believe there should be a discussion on creating a new, complex broadband program USF assistance plan until there is a full analysis of the current program, including services provided by OUSF recipients.

ISSUES LIST – Questions 47-53

As noted earlier in OCTA comments, one of the reasons for UM 1481 docket was to explore changing the current program to “broadband support.” Questions 47 through 53, Future Broadband Deployment, address some of the issues involving the development of an Oregon broadband support fund. OCTA believes it is premature to begin a new OUSF program based on the reasons stated above. The Oregon Broadband Mapping program has not been completed. How the current monies are being used has not been determined. Whether there continues to be a need for a fund at all is still to be determined. How the FCC will treat OUSF, Intercarrier Compensation and other issues is not settled. All of these matters should be addressed before the question of support for broadband funding using the OUSF is considered.

CONCLUSION

OCTA believes the issues under consideration in this docket are extremely important for the competitive growth of both telecommunications and broadband services in the state, and look forward to playing a constructive role in assisting the Commission in resolving these challenges.

Thank you for considering our comments.

Submitted this 25th day of October, 2010

By: 

Mike Dewey
Executive Director, OCTA

**CERTIFICATE OF SERVICE
UM 1481**

I hereby certify that the attached Comments from the Oregon Cable Telecommunications Association (OCTA) were served on October 25, 2010, by U.S. Mail and electronic email, unless otherwise specified, to the following parties:

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DATED this 25th day of October, 2010

Oregon Cable Telecommunications Association

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