

October 25, 2010

Honorable Shani Pines, Administrative Law Judge
Oregon Public Utility Commission
PO Box 2148
Salem, OR 97308-2148

Re: UM 1481 - Staff Investigation of the Oregon Universal Service Fund - TRACER's
Opening Comments

Dear Judge Pines:

As requested in the Telephone Conference Report, Docket UM 1481, filed on June 22, 2010, TRACER hereby files its opening comments in this matter.

Very truly yours,

ATER WYNNE LLP



Arthur A. Butler

Enclosure
cc: Certificate of Service

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BEFORE THE
PUBLIC UTILITY COMMISSION OF OREGON
UM 1481

In the Matter of
PUBLIC UTILITY COMMISSION OF
OREGON
Staff Investigation of the Oregon Universal
Service Fund

OPENING COMMENTS OF TRACER

COMMENTS

**INTRODUCTION
(RESPONSIVE TO ISSUES 1, 2, 3, 5, 14, 22)**

The Oregon Telecommunications Ratepayers Association for Cost-based and Equitable Rates (hereinafter TRACER) hereby submits its comments in response to the Consolidated Issues List in the above the captioned docket.

TRACER recognizes that reformation of the federal and state universal service funds (USF) to recognize changes in technology and the marketplace and to support Broadband Internet access is extremely important and, because of intense industry pressure, will be very difficult.

TRACER has long supported the universal service goals set forth in section 254 of the Telecommunications Act of 1996 (the "Act"). Of particular importance here, section 254(b)(3)

1 states that consumers in rural areas should have access to advanced telecommunications and
2 information services that are "reasonably comparable to those provided in urban areas," and
3 Section 254(b)(5) directs that mechanisms to preserve and advance universal service be
4 "specific, predictable and sufficient." *Id.*

5 With respect to basic voice service, current telephone penetration rates demonstrate that
6 universal voice service has largely been achieved in Oregon and that the current level of support
7 from both federal and state implicit and explicit sources is sufficient. Indeed, 98.1 percent of all
8 households in Oregon and 92.9 percent of households making less than \$10,000 per year have
9 phone service.¹

10 Nevertheless there is no doubt that the incumbent LECs have been experiencing a
11 noticeable loss of switched access lines, due in large part to customers switching to mobile
12 wireless services and/or interconnected VoIP service provided over their broadband connections,
13 whether cable modem, DSL, fiber to the premise, or fixed wireless service. For most ILECs that
14 has understandably meant a loss of regulated revenues.² Interestingly, the largest loss of lines
15 and revenues has been experienced by the larger ILECs; the small telecom utilities and
16 cooperatives, while experiencing some line loss, have not experienced large declines of total
17 revenues.³ In fact, the cooperatives' total revenues have remained fairly constant over the last
18 seven years. It is important to recognize that these line and revenue figures do not include
19 information about revenues receive from the ILECs' provision of broadband access services or
20 any adjuncts thereto, including interconnected VoIP services, and therefore do not represent the
21 whole picture of those providers' financial situation.

22 This movement away from legacy voice services on the part of consumers raises an
23 important question about whether, how long, and to what extent USF funding should continue to

24 ¹ See Telephone Penetration by Income by State (data through March 2009), FCC, Wireline Competition Bureau,
25 Industry Analysis and Technology Division, http://hraunfoss.fcc.gov/edocs_public/attachmatch/DOC-297986A1.pdf, at 24 (May 2010).

26 ² See 2009 Oregon Utility Statistics, Oregon Public Utility Commission, at 56-70.

³ *Id.*

1 support legacy voice services. If a significant number of consumers are choosing to take mobile
2 wireless or interconnection VoIP services, it does not make sense to continue to support an
3 ubiquitous voice-centric network with two or three lines to every household.⁴

4 TRACER agrees that it is time to shift the focus of the high-cost federal and state USFs
5 away from supporting legacy voice services and towards a broader deployment of broadband.
6 We believe that most parties in this proceeding support this goal. The differences lie in the
7 specifics of how to make a broadband-focused fund a reality and how to handle the transition.
8 As with any significant policy change, the first essential is to do no harm. No matter what
9 specific changes are implemented, care must be taken to not undermine what broadband
10 deployment has already been implemented or undermine the broad availability of voice service
11 that has been achieved through existing policies.

12 On the other hand, the Commission and the Legislature should be mindful of the stresses
13 that the current state of the economy is putting on all end-users. From TRACER's perspective,
14 all of its members face severe budget limitations, with those budgets having been either frozen or
15 severely cut. Accordingly, one of the core principles of reform should be to recognize that USF
16 funds are finite and must not unfairly burden consumers of all sizes.

17 Thus, TRACER recommends that the Commission adopt two essential goals in its
18 evaluation and adoption of meaningful universal service reforms:

- 19 a. Encourage investment in, and the deployment of, broadband infrastructure to
20 areas in which it is lacking or to areas in which there is not a reasonable business
21 case for sustaining service in the absence of support.
- 22 b. Distribute any support funds in an efficient, targeted manner that avoids waste
23 and minimizes burdens on Oregon consumers.

24 In order to meet these goals it will be essential for the Commission and the Legislature to
25 set broadband spending priorities and force providers to maintain reasonable expectations for

26 ⁴ Unlike residential customers, business customers continue to rely heavily on the legacy PSTN and view mobile service as an adjunct, not a substitute, for their landline service.

1 high-cost funding in the future. It must also be recognized that at some point consumers who
2 live in remote and sparsely populated areas of the state must take responsibility for the
3 consequences of their decisions about where to live. Not everyone can realistically expect to
4 have the identical service, using the identical technology, that consumers in the more densely
5 populated areas have. There simply are some areas where it is prohibitively expensive to extend
6 wireline broadband service, and where fixed or mobile wireless service is not suitable. In those
7 areas, consumers may have to rely on satellite service.⁵

8
9 **A. The Commission should make some improvements in the existing Oregon**
10 **USF but basically retain the status quo until it knows what the FCC is doing**
11 **and how the National Broadband Plan and American Recovery and**
12 **Reinvestment Act are implemented.**

13 As more fully discussed below, TRACER recommends that the Commission make
14 certain improvements to the existing Oregon USF but basically retain the status quo until it
15 knows what the FCC is doing and how the National Broadband Plan and American Recovery
16 and Reinvestment Act are implemented.

17 **1. It is premature to be determining whether or to what extent the state**
18 **should adopt a broadband subsidy program. (Responsive to Issues 6,**
19 **29, 30, 31)**

20 On April 21, 2010 the FCC launched a proceeding to implement high-cost reform
21 as part of the recently released National Broadband Plan.⁶ The new proceeding sought comment
22 on ways to use High-Cost program funds to expand broadband services and shift funding away
23 from services and areas no longer in need of support. It also sought comment on ways to limit
24 the growth of the funds, as well as ways to improve broadband deployment.

25 ⁵ The Rural Utilities Service and the NTIA have improved access for rural Americans who cannot be reasonably
26 served by other technologies by making four satellite awards.

⁶ Connect America Fund, A National Broadband Plan for Our Future, High-Cost Universal Service Support, WC
Docket No. 10-90, Gen Docket No. 09-51, WC Docket No. 05-337, Notice of Inquiry and Notice of Proposed
Rulemaking, FCC 10-58 (reI. April 21,2010) (Notices).

1 The NOI/NPRM sought comment on whether the FCC should continue to use a form of
2 cost modeling, or move to another mechanism such as reverse auctions, to determine the amount
3 of support to be distributed. The FCC also sought comment on how it might jump-start
4 broadband deployment in unserved areas while finalizing funding rules, and whether it should
5 implement certain funding freezes and caps on the existing High-Cost Fund.

6 The FCC stated that it intends to create a new Connect America Fund sometime in 2010
7 or 2011 to fund broadband deployment, establishing certain minimum speed requirements to
8 funding eligibility—4 mbps up/1mbps down for residential consumers, and 1 gbps for anchor
9 institutions such as schools, medical facilities, etc. The FCC also intends to establish a Mobility
10 Fund to promote the deployment of 3G services to rural areas. The basic plan is to fund one
11 broadband provider meeting these speed requirements, whether wireline or fixed wireless, and
12 one mobile wireless carrier providing 3G service in areas of the country where there is no
13 business case for providing those services without additional funding.

14 TRACER believes it would be premature for the Commission to try to develop any
15 proposal for state funding of broadband deployment until the FCC determines exactly what it
16 intends to do. The Commission should also wait until it can (1) determine exactly what
17 broadband facilities and services have actually been deployed in Oregon and where, and (2) how
18 the ARRA funding awarded for the state is implemented and how it helps meet the state's
19 broadband availability goals. Otherwise the Commission runs the risk of implementing
20 something that is inconsistent with the eventual federal broadband deployment efforts, wasteful,
21 and unnecessarily burdensome on Oregon consumers.

22 Until the FCC acts, no one can accurately say there will even be a need for a state
23 program. Moreover, without know what the FCC will do with regard to federal funding no one
24 can offer any meaningful advice on whether the most efficient state subsidy distribution
25 mechanism would be ARRA-type funding of specific projects, reverse auctions or other market-
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1 based distribution mechanisms, or the use of a hypothetical cost model (which has not yet been
2 developed and will undoubtedly be very contentious) with an appropriate benchmark offset for
3 revenues that can be expected to be generated over the network.

4 **B. Any USF and Broadband Funds Should Be Separate. (Responsive to Issue 4)**

5
6 Regardless of when and if the Commission decides to proceed with reforming the state
7 USF program, there are a couple of key principles that TRACER urges the Commission to adopt.
8 First, any broadband support subsidy fund should be separate from the existing voice service
9 USF plan. The appropriate requirements of a broadband deployment program will necessarily be
10 quire different from those embedded in the legacy voice plan, and the conditions faced by
11 providers, including the nature of the market, are strikingly different. The two plans should be
12 kept separate. That is not to say that as a transition takes place from voice to broadband support,
13 funds cannot be shifted from one plan to another.

14 **C. USF and Broadband Should Not Be Subsidized in Areas Served by
15 Unsubsidized Providers. (Responsive to Issues 25, 55, 61)**

16 TRACER also urges the Commission to shift subsidies for voice and Broadband services
17 away from areas being served by unsubsidized providers. Current USF subsidies in those areas
18 could be shifted to support broadband in un-served areas.

19 If an area is receiving unsubsidized service, the public is not served by continuing
20 perpetual subsidies to ILECs. Cable companies provide perfectly adequate interconnected VoIP
21 service that substitutes for traditional telco provided voice service. Moreover, there is no basis
22 for asserting that broadband service provided by cable companies does not substitute for telco
23 provisioned broadband service. Thus, it is simply wasteful to continue subsidizing telco service
24 indefinitely. Withdrawal of the subsidies should, however, occur over an appropriate transition
25 period to allow telcos to adjust their business plans. As the subsidies are phased out, the money
26 should be redirected to support broadband in un-served areas.

1 Contrary to the assertions of some providers, competition should not be subsidized.
2 Oregon tax-payers should not be forced to subsidize uneconomic competition. The Commission
3 should not use scarce subsidy monies that could be used to support broadband in un-served areas
4 nor should the total cost of subsidization be higher than it otherwise would be with only one
5 provider per service area supported. In short, the Commission should not create high-cost
6 support for multiple providers in areas that are in theory uneconomical for even one provider to
7 serve. Providing support for multiple carriers in such areas would be providing funding that is in
8 excess of what is necessary to achieve the goals of the universal service program and
9 unnecessarily burdening Oregon consumers.

10 The USF should not be excessive or broadband subsidies denied to un-served areas so
11 that rural areas would realize the benefits of so-called competition. Waste is no longer
12 affordable. Once again, unwise subsidies should be withdrawn over an appropriate transition
13 period.

14 The best solution would phase out all existing excessive subsidies over an appropriately
15 short period (perhaps five years) that could cover a reasonable span of time to allow existing
16 recipients of those subsidies to adjust their business plans.

17 **D. Subsidies Should Not Be Provided in Areas Where There Is No Demand.**
18 **(Responsive to Issues 45, 47, 48)**

19 In addition to not subsidizing broadband deployment in areas with unsubsidized
20 providers, the Commission should not adopt any plan that would require subsidies for the
21 deployment of broadband facilities to areas where there is no demand. That would be unwise
22 and wasteful.

23 The simple fact is that many people do not want broadband, whether it is because they
24 don't realize its benefits, aren't comfortable using computers or the internet on their own, are
25 fearful of identity thieves or pornographers entering their homes, or simply don't find online
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1 content relevant to their lives. The Pew Research Center recently reported⁷ that 21% of
2 American adults do not use the internet, even a third of those have come connection to the online
3 world. Moreover, by a 53% to 41% margin, American say they do not believe that the spread of
4 affordable broadband should be a major government priority. Interestingly, non-internet users
5 are less likely than current users to say the government should place a high priority on the spread
6 of high-speed connections.

7 Oregon consumers should not be force to fund a very expensive “Field of Dreams” “build
8 it and they will come” network where the residents simply are not willing to subscribe to the
9 service. Accordingly, TRACER recommends that, if the Commission were to proceed with
10 developing a broadband deployment subsidy program, there be a requirement that residents of
11 the proposed deployment area be required to commit to taking broadband service at the
12 provider’s normal rates for a period of at least two years.

13 **E. Any Broadband Subsidy Program Should Take into Account What Facilities**
14 **Have Already Been Deployed As Well As Additional Sources of Funding for**
15 **Broadband Deployment. (Responsive to Issues 34, 35, 40, 52)**

16 In fashioning any broadband support plan the Commission should remember that any
17 support should be narrowly tailored to areas in which there is no private sector case for
18 broadband deployment. It should also take into account the fact that broadband deployment is
19 currently expanding throughout the country and the state, and areas that are presently unserved
20 may well be in line for broadband deployment as a result of the expenditure of American
21 Recovery and Reinvestment Act (ARRA) funding⁸, as well as other Rural Utilities Service and

22 ⁷ See <http://pewinternet.org/Reports/2010/Home-Broadband-2010.aspx> .

23 ⁸ For example, the NTIA recently announced that Oregon received a total of \$31.3 million in BTOP and SDBB
24 awards spread over 7 distinct projects. Included among those are infrastructure projects for Bend Cable
25 Communications, LLC (\$4,418,765), Clackamas County (\$7,804,181), Lane Council of Governments (\$8,325,530).
26 See attached. In addition, RUS has announced Broadband Initiative Program grants that will fund 285 last-mile
broadband infrastructure projects in 45 states and Native American tribal areas, including Oregon. Among the
recipients of last-mile infrastructure BIP awards in Oregon are Canby Telephone Association (\$248,046 loan,
\$496,090 grant), Cascade Networks, Inc. (\$578,316 loan, \$578,316 grant), Cascade Utilities (\$1,299,433 loan,
\$3,898,299 grant), City of Sandy (\$374,548 loan, \$374,537 grant), Gervais Telephone Company (\$314,430 loan,
\$314,430 grant), Monroe Telephone Company (\$1,413,684 loan, \$4,241,050 grant), Warm Springs

1 National Telecommunications and Information Administration grant programs, state investment
2 programs, tax incentives, public-private partnerships, and the announced expansion of 4G
3 services by national and regional wireless carriers, and the announced deployment of next-
4 generation satellite services over the next few years.

5 The Commission should also take into account the fact that ILECs, using legacy federal
6 and state USF funds and other government loans and grants have already deployed extensive
7 broadband facilities, what they term "multi-purpose networks." Broadband deployment
8 requirements in settlement agreements and/or merger orders should also be accounted for. Thus,
9 it is important for the Commission to fully understand just what broadband facilities and service
10 have already been deployed and what will soon be deployed.

11 The Commission should avoid devoting scarce universal service funds to broadband
12 deployment in areas that, due to other investments, are already served or poised to attain that
13 status. And the Commission should avoid broad, unfocused subsidy programs that do not adjust
14 for these already-made investments.

15 **F. The Commission Should Set Reasonable Speed and Usage Requirements for**
16 **Any Supported Broadband Services. (Responsive to Issues 48, 50, 53, 57, 59,**
17 **60)**

18 The National Broadband Plan concluded that an initial universal service broadband speed
19 target of 4 Mbps download/1 Mbps upload broadband transmission speeds would ensure
20 universal access to broadband.⁹ NBP at 135. Some rural parties criticize it as violating the
21 reasonable comparability and sufficiency principles of Section 254(b) of the Act.

22 47 U.S.C. § 254(b). Section 254(b)(3) states that consumers in rural areas should have
23 access to advanced telecommunications and information services that are "reasonably
24 comparable to those provided in urban areas," and Section 254(b)(5) directs that mechanisms to

25 Telecommunications Company (\$2,722,960 loan, \$2,722,960 grant), and Trans-Cascades Telephone Company
(\$590,099 loan, \$1,770,294 grant). See

26 <http://www.broadbandusa.gov/files/BIP%20Round%201%20and%20Round%202%20Awardees.pdf>, at 72-74.

⁹ National Broadband Plan, at 135.

1 preserve and advance universal service be "specific, predictable and sufficient." Id. Critics of the
2 NBP speed target claim that because higher broadband speeds are likely to be available in some
3 urban areas, the speed target should be set at those levels. However, "reasonably comparable"
4 does not mean "identical," and "sufficient" does not mean "the top speed available." The FCC
5 concluded in the NBP that the 4 Mbps downstream/1Mbps upstream target "represents a speed
6 comparable to what the typical broadband subscriber receives today, and what many consumers
7 are likely to use in the future, given past growth rates," and will therefore "ensure universal
8 access."¹⁰ That analysis is what Section 254 requires. The universal service broadband speed
9 target should reflect a broadband speed that average consumers actually subscribe to and use-not
10 the top speed available anywhere in the country. The NBP rejected requiring higher broadband
11 speeds at this time, noting that "[w]hile the nation aspires to higher speeds" the initial target
12 itself is still "aggressive" and "one of the highest universalization targets, of any country in the
13 world." Furthermore, the NBP recommended that the Commission review and reset the
14 broadband availability target at regular intervals.¹¹

15 Supporting transmission speeds higher than the NBP's target via fiber to the home
16 (FTTH) offerings would be prohibitively expensive, resulting in federal and state USF
17 contribution factors that would increase many times over above the current levels, which in
18 today's economy is impractical. Indeed, there can be no serious dispute that such increases in
19 contributions would be unaffordable for many consumers.

20 If anything, there is a case for relaxing the 4 Mbps downstream/1 Mbps upstream targets
21 under certain circumstances, such as when meeting them would require redeployment of
22 broadband in areas that are already served, just at slightly lower speeds. After all, the real point
23 is getting service adequate for consumers to perform the tasks that will produce the economic
24 development and educational benefits that can be achieved. The higher speeds, particularly the

25 ¹⁰ *Id.*

26 ¹¹ *Id.*

1 100 Mbps speeds advocated by some parties, today are necessary only for certain HD video
2 applications. Oregon consumers should not be forced to subsidize the deployment of very
3 expensive infrastructure just so certain rural residents can stream HD video.

4 In addition to speed thresholds, the Commission should consider usage allowances as a
5 fundamental aspect of reasonable broadband service. For example, Comcast allows customers
6 250 GB usage a month. Wireless broadband providers often allow 5 GB (equivalent to a single
7 HD movie or two standard definition movies).¹² TRACER does not believe that this usage
8 allowance really satisfies the goal of the National Broadband Plan. The economic and
9 educational benefits of broadband service cannot be realized if consumers reach the limits of
10 their monthly cap in a small number of days out of a month. That someone in a rural area has 3G
11 service does not mean he/she can do his/her homework, access telemedicine, etc., if there is such
12 a small usage allowance imposed by the carrier. With small usage limits, 3G, or even 4G,
13 service becomes just a digital safety net for people who have no other choice—a situation made
14 better if an anchor institution with adequate broadband service is somewhere nearby and
15 accessible to the public.

16 **G. Part Of USF Reform Is Fundamental Change To The USF Contribution**
17 **Assessment Methodology. (Responsive to Issues 66, 67, 69, 71)**

18 TRACER believes that universal service subsidies, whatever they are called, are actually
19 taxes and should be funded by general tax revenues. Its members recognize, however,
20 particularly in the current economic climate, that this is politically unlikely. Some parties
21 understandably argue that all providers of broadband should contribute to any program

22 ¹² AT&T recently announced a change to its data offerings for both smart-phones and Apple's iPad 3G
23 with plans that cost less but also limit monthly data. New customers will have to choose either a 200 MB or a 2 GB
24 data plan. DataPlus—200 MB of data for \$15; customers that exceed that cap will pay an additional \$15 for
25 another 200 MB. DataPro—2 GB of data for \$25; customers will pay \$10 for each GB over the cap in a given
26 month. T-Mobile will throttle back bandwidth after a customer paying \$59.99 a month reaches a 5 GB threshold, so
customers won't pay extra charges for additional data but will see their mobile data slow way down. Customers of
T-Mobile's 200 MB plan will have their overage charges cut in half. So far Clearwire still has an unlimited mobile
broadband offering.

1 subsidizing the deployment of broadband to high-cost areas. These parties seek expansion of the
2 legacy USF contribution base because they recognize that both the federal and the state USF
3 factors over the long term are approaching an unsustainable level and jeopardizing the goodwill
4 policymakers and the public have toward the universal service funds. Specifically they contend
5 that the USF would be sustainable in the long term if all broadband providers and services
6 contribute to the USF.

7 Requiring broadband providers to contribute to the USF may, however, not be possible.
8 At the interstate level section 254(d) of the Act requires that every telecommunications carrier
9 that provides interstate telecommunications shall contribute to the USF. Additionally the section
10 states that the FCC may require any other provider of telecommunications to contribute to the
11 USF. Because Broadband service currently is classified as an Information service, the FCC
12 cannot compel providers of Broadband to contribute to the USF pursuant to section 254 of the
13 Act. There is also a serious question whether the OPUC could compel broadband providers to
14 contribute to a state fund.

15 The Commission, however, has the unquestioned ability and jurisdiction to assess
16 contribution obligations on all who provide services that utilize the public switched telephone
17 network (PSTN). And, if the rationale for requiring all communications providers (and their
18 customers) to contribute to the support of basic communications services in high-cost areas of
19 the state is that they all can access the PSTN and at least indirectly benefit from the PSTN being
20 available in those high-cost areas, then the basis for their contributions should be their relative
21 ability to make simultaneous outward calls to the PSTN.

22 This is in fact the rationale for the assessment mechanism for funding E-911 calls
23 adopted in Washington three years ago. As the result of a broad-ranging consensus among
24 representatives of local exchange carriers, CLECs, interexchange carriers, residential end-users,
25 and enterprise customers, Washington adopted legislation to fund E-911 services by imposing a
26

1 uniform excise tax on all switched access lines in the state, all radio access lines whose place of
2 primary use is located within the state, and all interconnected voice over internet protocol service
3 lines on an account that are capable of simultaneous unrestricted outward calling to the public
4 switched telephone network. RCW 82.14B.030.¹³ The Washington E-911 funding scheme
5 should be adopted for USF assessments in Oregon.

6 If a pure numbers-based contribution assessment methodology were in place as suggested
7 by some parties, business subscribers would pay a disproportionately large share of the USF
8 burden. On the interstate level, despite the fact that residential subscribers account for seventy
9 percent (70%) of all non-broadband connections to the PSTN, the current revenue-based
10 assessment scheme has resulted in business subscribers funding about 44-46% of the USF
11 requirements. Under a pure numbers-based methodology, business users, particularly those who
12 use DID numbers, would shoulder a funding obligation disproportionately higher than their share
13 of PSTN connections, because they on average utilize more working telephone numbers for each
14 PSN connection. Accordingly, business users would pay many times as much as residential
15 subscribers for each PSTN connection when they should pay the same. Both should pay the same
16 amount for wireless connections.

17 TRACER urges the Commission to adopt a telephone line-based USF assessment
18 methodology. This methodology would provide a stable, indeed growing, contribution base and
19 would result in all customers shouldering a fairer USF burden than they do under the current
20 revenue-based methodology.

21 _____
22 ¹³ “Switched access line” is defined as “the telephone service line which connects a subscriber’s main telephone(s)
23 or equivalent main telephone(s) to the local exchange company’s switching office.” “Radio access line” is defined
24 as “the telephone number assigned to or used by a subscriber for two-way local wireless voice service available to
25 the public for hire from a radio communications service company.” Radio access lines include, but are not limited
26 to, “radio-telephone communications lines used in cellular telephone service, personal communications services, and
network radio access lines, or their functional and competitive equivalent. “Interconnected voice over internet
protocol service” has the same meaning as provided by the FCC in 47 C.F.R. Sec. 9.3. “Interconnected voice over
internet protocol service line” is defined as “an interconnected voice over internet protocol service that offers an
active telephone number or successor dialing protocol assigned by a voice over internet protocol provider to a voice
over internet protocol service customer that has inbound and outbound calling capability . . . when such a voice over
internet protocol service customer has a place of primary use in the state.”

1 **H. USF Reform Should Not Be Premised On Achieving Revenue Neutrality.**
2 **(Responsive to Issues, 17, 18)**

3 Several parties, particularly ILECs and interexchange carriers, maintain that USF reform
4 should be linked to reform of inter-carrier compensation mechanisms. They assert or imply that
5 an important feature of both reforms should be revenue neutrality, i.e., that telecom carriers
6 should not have their revenues reduced as a result of either USF or inter-carrier compensation
7 reform. TRACER fully supports USF reform and inter-carrier compensation reform, and
8 understands the complexity of such reform. Commission mandated USF and inter-carrier
9 compensation reform should not, however, be designed to achieve revenue neutrality.

10 The Commission does not have any legal obligation to make any transition to a new
11 compensation regime revenue neutral for the affected carriers. But it does has a legal obligation
12 to ensure that rates are just and reasonable. As this Commission approaches inter-carrier
13 compensation reform, the Commission should be mindful that cost recovery and revenue
14 neutrality are different concepts.

15 To date TRACER is unaware of evidence establishing that some or all local exchange
16 carriers would be unable to earn reasonable rates of return if the Commission (i) adopts an
17 intercarrier compensation model that significantly reduces switched access charges or (ii)
18 reforms universal service funding. Neither the larger ILECs nor rural ILECs have provided the
19 data needed to support a Commission finding that additional cost recovery would be needed
20 because of the implementation of a new intercarrier compensation model. Although carriers may
21 experience reduced revenues, a showing of reduced revenues is far from a showing that rural
22 carriers will not be able to offer services that are reasonably comparable to the services offered in
23 urban areas at rates reasonably comparable to the rates charged in urban areas or that carriers will
24 earn inadequate returns. What rural carriers have pointed out is that they have used federal and
25 state USF funds, RUS loans, access revenues, and other sources of funds to construct
26 multipurpose networks, many of them capable of providing broadband services with speeds that

1 meet or greatly exceed the minimums being considered by the FCC for federal support, yet they
2 have not provided information about all of the revenues they are able to generate from those
3 networks. The only revenue information relates to revenues they receive from regulated
4 telecommunications services. Accordingly, the Commission should not start USF and inter-
5 carrier compensation reform with a preconceived notion that LECs have justified crafting those
6 reforms to achieve revenue neutrality.

7 Moreover, although all parties likely would agree that ILEC switched access charges,
8 particularly those of the rural ILECs, are too high and should be reduced, it should be
9 remembered that those access charges in fact are imposed on those carriers that actually use the
10 ILECs high-cost networks. By switching the responsibility for recovery of the high costs of
11 these ILEC networks to all carriers, and their customers, without regard to whether or to what
12 extent they use the high-cost networks, the Commission will be removing an important economic
13 signal and force for efficiency for those network providers. The result looks more like a tax—an
14 assessment on one group for the benefit of an unrelated group

15 As a general rule TRACER believes that the Commission should require all providers, to
16 the maximum extent possible, to develop sustainable business models that rely primarily on end-
17 user revenue, rather than consumer-funded government subsidies. Forcing consumers to
18 continue to pay ever-increasing prices for insulating certain providers from the market dynamics
19 that their competitors must face without assistance, or enhancing those carriers' revenues
20 unreasonably, is unfair and unsustainable.

21 TRACER recognizes the need to accept the reality that modifying the status quo is
22 necessary and inevitable, but urges the Commission to require the carriers to look first to their
23 own customers to fund these necessary changes before turning to other telecommunications
24 consumers for additional burdensome subsidies.

1
2 **I. Conclusion**

3 In view of the foregoing, TRACER urges the Commission (i), after an appropriate
4 transition period, to eliminate subsidies in those areas receiving service from unsubsidized
5 providers; (ii) replace the current revenue-based USF contribution assessment methodology with
6 a line-based scheme;(iii) reject "revenue neutrality" as an idea that should be imbedded in inter-
7 carrier compensation reform; and (iv) wait until we see what the FCC actually decides to
8 implement with its proposed Connect America and Mobility Funds before moving forward on
9 any detailed evaluation of what, if any, role the state should play in establishing a state
10 broadband subsidy fund.

11
12 RESPECTFULLY SUBMITTED this 25th day of October, 2010.

13 ATER WYNNE LLP

14
15 By 

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26 Attorneys for TRACER

ATTACHMENT A

Oregon



Grantee	Total Award	Type
Bend Cable Communications, LLC (BendBroadband)	\$4,418,765	Infrastructure
Communication Service for the Deaf, Inc.	\$14,988,657	Sustainable Adoption
County of Clackamas	\$7,804,181	Infrastructure
County of Crook	\$3,908,064	Public Computer Centers
Lane Council of Governments	\$8,325,530	Infrastructure
One Economy Corporation	\$28,519,482	Sustainable Adoption
Portland State University	\$3,318,031	Sustainable Adoption
Public Utility Commission of Oregon	\$5,658,302	Broadband Data & Development
University Corporation for Advanced Internet Development	\$62,540,162	Infrastructure
ZeroDivide	\$1,384,242	Sustainable Adoption

[Bend Cable Communications, LLC \(BendBroadband\)](#)

Infrastructure \$4,418,765
Project serves: [Oregon](#)

While the City of Bend, the largest city in Oregon east of the Cascades, has a high-speed, city-wide wireless broadband network, the surrounding economically distressed areas of central Oregon lack adequate broadband connectivity. BendBroadband's Central Oregon Fiber Alliance project is a partnership with the local communities of Madras, Prineville, Sunriver, and LaPine as well as key health, educational, public safety, and business development entities that plans to create a comprehensive, regional 40 Gbps fiber ring.

[Communication Service for the Deaf, Inc.](#)

Sustainable Adoption \$14,988,657

Project serves: [Alabama](#), [Alaska](#), [American Samoa](#), [Arizona](#), [Arkansas](#), [California](#), [Colorado](#), [Commonwealth of the Northern Mariana Islands](#), [Connecticut](#), [Delaware](#), [District of Columbia](#), [Florida](#), [Georgia](#), [Guam](#), [Hawaii](#), [Idaho](#), [Illinois](#), [Indiana](#), [Iowa](#), [Kansas](#), [Kentucky](#), [Louisiana](#), [Maine](#), [Maryland](#), [Massachusetts](#), [Michigan](#), [Minnesota](#), [Mississippi](#), [Missouri](#), [Montana](#), [Nebraska](#), [Nevada](#), [New Hampshire](#), [New Jersey](#), [New Mexico](#), [New York](#), [North Carolina](#), [North Dakota](#), [Ohio](#), [Oklahoma](#), [Oregon](#), [Pennsylvania](#), [Puerto Rico](#), [Rhode Island](#), [South Carolina](#), [South Dakota](#), [Tennessee](#), [Texas](#), [U.S. Virgin Islands](#), [Utah](#), [Vermont](#), [Virginia](#), [Washington](#), [West Virginia](#), [Wisconsin](#), [Wyoming](#)

Broadband's ability to expand educational and employment opportunities is especially meaningful for Americans who are deaf or hard of hearing, a community that faces unique challenges in education and that suffers from a rate of unemployment much higher than the national average. Communication Service for the Deaf, Inc. (CSD) intends to expand broadband adoption among people who are deaf and hard of hearing and provide them with online tools to more fully participate in the digital economy. The project proposes to employ a combination of discounted broadband service and specialized computers, technology training from an online state-of-the-art support center customized to the community's needs, public access to videophones at anchor institutions from coast to coast, and a nationwide outreach initiative. Thousands will gain online access to all the Internet has to offer, including sign language interpreters, captioned video services, and other content and functionalities designed especially to advance their educational, employment, and healthcare interests.

[County of Clackamas](#)

Infrastructure \$7,804,181

Project serves: [Oregon](#)

The County of Clackamas, in the Mt. Hood region of north-central Oregon, launched the Clackamas Broadband Innovation Initiative to bring affordable high-speed broadband to 156 community anchor institutions countywide. The project, a 180-mile network of new fiber optic cable, aims to provide speeds as high as 1 Gbps to K-12 schools, community colleges, and libraries, enabling distance learning applications and other educational services that they are currently unable to utilize. Clackamas County expects to connect at least 90 schools and two community colleges directly to the project's middle mile network, along with 36 public safety entities, four health care providers, eight city halls, and ten libraries.

[County of Crook](#)

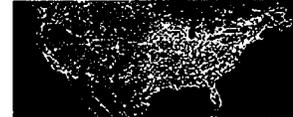
Public Computer Centers \$3,908,064

Project serves: [Oregon](#)

Crook County covers 3,000 square miles in a rural, high desert and forest area of central Oregon with spotty broadband availability and the state's highest unemployment rate following recent declines in forestry, tourism, and manufacturing. The

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County has partnered with a wide range of community organizations from the public, private, and nonprofit sectors to plan and propose a new, 65-station computer learning center to be built in Prineville, the county seat. It will be open to the public more than 90 hours per week and will provide the county's 25,000 residents with education, training and broadband access at a minimum speed of 10 Mbps, eventually reaching 100 Mbps. The Crook County Computer and Education Center project also plans to deploy a mobile lab with satellite connectivity and 12 mobile workstations to provide instruction and training to remote areas of the county.

Lane Council of Governments

Infrastructure \$8,325,530

Project serves: Oregon

The Regional Fiber Consortium Lighting the Fiber project proposes to enhance an existing fiber-optic backbone and deploy 124 miles of fiber-optic network to deliver broadband capabilities across three large, mostly rural counties – Lane, Douglas, and Klamath – and the Klamath Tribal regions, in Western Oregon. The project plans to enhance education, healthcare delivery, job training, and government services by providing 100 Mbps connections for more than 100 community anchor institutions, including medical centers, public safety entities, schools, community colleges, and libraries. The project also expects to spur new or improved high-speed Internet access for local consumers, including an estimated 104,000 households and 6,000 businesses, by enabling local Internet service providers to connect to the project's open network.

One Economy Corporation

Sustainable Adoption \$28,519,482

Project serves: Alabama, Arkansas, California, Connecticut, District of Columbia, Florida, Georgia, Illinois, Indiana, Kentucky, Maryland, Massachusetts, Michigan, Minnesota, Missouri, Nevada, New Jersey, New Mexico, New York, North Carolina, Ohio, Oklahoma, Oregon, Pennsylvania, Rhode Island, South Carolina, South Dakota, Tennessee, Texas, Virginia, Washington, Wisconsin

The 21st Century Information and Support Ecosystem project proposes to implement a comprehensive program of computer training, wireless Internet access, broadband awareness marketing, and online content and applications to residents of 159 affordable and public housing developments and low-income communities in 50 cities and towns across 31 states and the District of Columbia. The project plans to implement four principal programs: training 2,500 youth to become "Digital Connectors" who will then provide digital literacy training to others in their communities; deploying localized broadband networks in public housing developments; developing online content and applications aimed at low-income, low-literacy audiences.

Portland State University

Sustainable Adoption \$3,318,031

Project serves: California, Louisiana, Minnesota, New York, Oregon, Texas

Partnering with adult literacy and basic education organizations with long histories in their respective states, Portland State University proposes to lead the Learner Web Partnership project to increase broadband use among low-income, minorities, and other vulnerable populations by teaching digital literacy along with English literacy, educating participants to become informed consumers, and providing access to career paths in the digital economy. Project partners will deploy the existing Learner Web software, which has been cited by the U.S. Department of Education's Office of Vocational and Adult Education as a noteworthy adult education program, for more than 20,000 residents. Instructional materials will address topics including use of broadband for job searches, education and health information, and smart consumer practices. The project proposes a distinctive focus on the needs of adult learners using an approach that combines self-paced learning with live tutorial support.

Public Utility Commission of Oregon

Broadband Data & Development \$5,658,302

Project serves: Oregon

Project Components

State Capacity Building:

The Public Utility Commission of Oregon (PUC) in partnership with the Governor's state broadband council (Oregon Broadband Advisory Council) will assess needs and create long-term goals for the state and local communities. The PUC will request feedback from local communities and will also collaborate across all state agencies to ensure ownership by all stakeholders.

Technical Assistance:

The PUC plans to develop a program that, through the use of broadband and technology, will help ensure the long-term survival of Oregon's rural small businesses. By providing much-needed technical assistance to rural businesses in partnership with the Oregon Small Business Development Center Network (OSBDCN), will support small businesses that require broadband-based and technology skills training in order to continue their growth and compete regionally in a global marketplace. OSBDCN will provide focused training to help these organizations incorporate broadband and IT into their businesses. Participants will receive technology training in areas such as technology planning, web-enabled supply chain dynamics, and online analytics.

Application Usage and Development:

This proposed partnership with the Association of Oregon Counties provides technical training and consulting on e-government and broadband applications to local governments throughout the state to accelerate their adoption of new web applications. The state has made it a key priority to improve access to the informational benefits of broadband to citizens and increase demand. Specific examples of improvements could include online bill pay, online access to public meetings, and online commenting on public policy as well as proceedings.

Data Collection, Integration, and Validation:

This project was originally funded for broadband planning activities and two years of data collection. In September of 2010, this project was amended to extend data collection activities for an additional three years and to identify and implement best practices.

University Corporation for Advanced Internet Development

Infrastructure \$62,540,162

Project serves: [Alabama](#), [Alaska](#), [Arizona](#), [Arkansas](#), [California](#), [Colorado](#), [Connecticut](#), [Delaware](#), [District of Columbia](#), [Florida](#), [Georgia](#), [Hawaii](#), [Idaho](#), [Illinois](#), [Indiana](#), [Iowa](#), [Kansas](#), [Kentucky](#), [Louisiana](#), [Maine](#), [Maryland](#), [Massachusetts](#), [Michigan](#), [Minnesota](#), [Mississippi](#), [Missouri](#), [Montana](#), [Nebraska](#), [Nevada](#), [New Hampshire](#), [New Jersey](#), [New Mexico](#), [New York](#), [North Carolina](#), [North Dakota](#), [Ohio](#), [Oklahoma](#), [Oregon](#), [Pennsylvania](#), [Rhode Island](#), [South Carolina](#), [South Dakota](#), [Tennessee](#), [Texas](#), [Utah](#), [Vermont](#), [Virginia](#), [Washington](#), [West Virginia](#), [Wisconsin](#), [Wyoming](#)

As part of a longstanding project to connect essential community anchor institutions across the country, and facilitate closer collaboration and long-term benefits for education, research, healthcare, public safety, and government services, the University Corporation for Advanced Internet Development (UCAID) proposes a comprehensive 50-state network benefitting approximately 121,000 community anchors. The project proposes a large-scale, public-private partnership to interconnect more than 30 existing research and education networks, creating a dedicated 100-200 Gbps nationwide fiber backbone with 3.2 terabits per second (TBps) total capacity that would enable advanced networking features such as IPv6 and video multicasting. The project plans to connect community anchors across all disciplines into virtual communities with shared goals and objectives, including colleges, universities, libraries, major veterans and other health care facilities, and public safety entities, with additional benefits to tribes, vulnerable populations, and government entities.

ZeroDivide

Sustainable Adoption \$1,384,242

Project serves: [California](#), [Hawaii](#), [New Mexico](#), [Oregon](#), [Utah](#), [Washington](#)

ZeroDivide's Generation ZD Digital Literacy Program proposes a major regional training and broadband access program for low-income youth in communities across several Western states that will encourage the development of a new generation of broadband users. The project plans to enhance broadband services and outreach in Humboldt and San Benito counties and San Juan Bautista, California; Salt Lake City, Utah; Maui County, Hawaii; King, Snohomish, Skagit Island and Pierce counties, Washington; Multnomah and Washington counties and Portland, Oregon; and Santa Fe, New Mexico. It will also provide sustainable skills training, skill-sharing, and workforce development programs for the North Coast region of California, including for youth from the Native American Table Bluff Wiyot Tribe, Karuk Tribe, and Hoopa Valley Tribe.

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CERTIFICATE OF SERVICE

I hereby certify that I have this 25th day of October, 2010, served the foregoing along with the correct number of copies, of the foregoing **COMMENTS OF TRACER** in docket UM 1481 upon each party listed in the UM 1481 PUC Service List by email and, where paper service is not waived, by U.S. mail, postage prepaid, and upon the Commission by email and by sending 1 copy by U.S. mail, postage prepaid to the Commission's Salem offices.

(W denotes waiver of paper service)

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I declare under penalty of perjury under the laws of the State of Washington that the foregoing is true and correct.

DATED this 25th day of October, 2010, at Seattle, Washington.