

BEFORE THE PUBLIC UTILITY COMMISSION
OF OREGON

UM 1481

In the Matter of)	
)	
PUBLIC UTILITY COMMISSION OF)	RESPONSE OF CITIZENS' UTILITY
OREGON Staff,)	BOARD OF OREGON IN
)	OPPOSITION TO
Investigation of the Oregon Universal)	QWEST/FRONTIER JOINT MOTION
Service Fund)	FOR RECONSIDERATION AND
)	STAY
)	

Introduction

The Citizens' Utility Board of Oregon opposes the Joint Motion for Reconsideration of portions of Order 10-946 filed by Qwest Corporation (Qwest) and Frontier Communications Northwest, Inc. (Frontier).

Qwest and Frontier requested reconsideration and a stay of those portions of the order that finds that: 1.) interim measures should be adopted for non-rural phone companies to further promote transparency in the Oregon Universal Service Fund (OUSF); and 2.) clarifies that non-rural companies may only use OUSF distributions for investment in infrastructure or maintenance.¹

CUB believes that the PUC was correct in issuing its order because more transparency is needed. CUB further believes that the PUC decision is correct because the non-rural telecommunications companies will not be harmed by leaving the order in place

¹ Qwest and Frontier also requested a stay of the requirement that semi-annual reports on use of OUSF funds must be filed beginning March 1, 2011. That requirement was stayed until the PUC addresses the Motion for Reconsideration. Order of Presiding ALJ Grant dated February 28, 2011.

while the additional phases of the docket proceed and the necessary information is gathered. CUB urges the PUC to deny the joint motion.

Argument

The PUC actually ordered only the following two things:

“1. Consideration of the substantive issues raised by the parties is delayed until after the 2011 legislative session; and

“2. Interim reporting requirements are adopted and a new phase of this docket is opened, to further promote the transparency and accountability of the Oregon Universal Service Fund.” Order 10-946 at 4.

A. ORS 756.040(2)², ORS 759.036 and ORS 759.425 give the PUC authority to issue interim requirements when needed.

ORS 756.040(2) gives the PUC power and jurisdiction to supervise and regulate every telecommunications utility in Oregon and to do everything necessary and convenient to exercise that power. ORS 759.036 provides that “except as otherwise provided by law, the Public Utility Commission shall have authority to determine the manner and extent of the regulation of telecommunications services within the State of Oregon.” ORS 759.425 sets forth the law of the Universal Service Fund and appoints the PUC as the arbiter of the fund. Clearly the PUC has the authority to issue interim requirements. Moreover, the comments received by the PUC in what is now Phase I of this docket were sufficient to raise concerns about the adequacy of the reporting requirements for the non-rural telecommunications companies. For example, staff stated that “for the two large companies the Commission currently has no effective way to determine how the money has been spent.” Staff Opening Comments, Response to Issue 12.

² “The Commission is vested with power and jurisdiction to supervise and regulate every public utility and telecommunications utility in this state, and to do all things necessary and convenient in the exercise of such power and jurisdiction.” ORS 756.040(2)

CUB believes that ORS 756.040(2), ORS 759.036 and ORS 759.425 give the PUC latitude to adopt interim requirements when the PUC has reason to be concerned about the adequacy of the current requirements. It is important that these are interim requirements that are the subject of additional input from parties in the additional phases of this docket. CUB believes the non-rural telecommunications companies will not be irreparably harmed by keeping these requirements in place while they are more fully considered and developed in the additional phases of this docket.

B. The need for transparency.

CUB would also note that in UM 1431 Frontier committed to fully supporting the cable system it acquired from Verizon. Subsequent actions by Frontier have given CUB reason to be concerned about the lack of transparency and follow through around statements and commitments made by Frontier in that docket. CUB also wishes to see Qwest and CenturyTel step up to the plate on reporting when both are currently engaged in trying to persuade the Commission to accept their merger agreement in docket UM 1484. CUB notes that it is a signatory to the Stipulation in that docket but that actions such as this give it cause for concern as to how these companies intend to interact with the PUC in the future. CUB wants to see more transparency, more compliance with Commission directives.

B. The PUC is at liberty to clarify its policies at any time.

The non-rural phone companies also argue that the PUC should not have found or clarified “that non-rural companies may only use OUSF distributions for investment in infrastructure or maintenance, such as new investment or investment associated with repairs and maintenance.” Order 10-946 at 3. The PUC stated it was merely clarifying its

existing policy. Thus, the PUC was not making a new finding, merely clarifying a previous policy.

D. This docket has been expanded to include additional phases.

This docket has been expanded to include two additional phases. The purpose of Phase II is to “further promote the transparency and accountability of the Oregon Universal Service Fund.” Order 10-946 at 4. That purpose is broad enough to encompass the issue of whether the investment limitations on non-rural phone companies that the PUC articulated in Order 10-946 are new limitations or are clarifications of previous limitations. It should also be broad enough to allow further consideration of whether such limitations are appropriate. But it will be hard to determine any of those things if the PUC does not have in its hands reporting information showing how these funds are used. The interim reporting requirements are minimal.

CUB believes that following the PUC’s directive to only invest OUSF funds in infrastructure and maintenance for the period until Phase II is decided should not damage the non-rural telecommunications companies because that is part of what they are supposed to be doing anyway.

Conclusion

Because the PUC has authority to issue interim orders as necessary, because all of the issues raised by the Companies can be addressed in the subsequent phases of this docket, and because the minimal reporting requested will not harm the companies, CUB respectfully requests that the Commission not abate its order. The sought after information is necessary for the completion of the rest of the docket.

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CUB respectfully urges the PUC to deny the Motion for Reconsideration and Stay.

Dated this 9th day of March, 2011.

Respectfully Submitted,

A handwritten signature in black ink, appearing to read 'Ray Myers', with a long horizontal flourish extending to the right.

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UM 1481 – CERTIFICATE OF SERVICE

I hereby certify that, on this 9th day of March, 2011, I served the foregoing **RESPONSE OF CITIZENS' UTILITY BOARD OF OREGON IN OPPOSITION TO QWEST/FRONTIER JOINT MOTION FOR RECONSIDERATION AND STAY** 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 one copy and one original by U.S. mail, postage prepaid, to the Commission's Salem offices.

(W denotes waiver of paper service)

(C denotes service of Confidential material authorized)

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