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November 23, 2010

Carol Hulse
Oregon Public Utility Commission
550 Capitol St., NE
Suite 215
Salem, OR 97301

Re: UM 1481

Dear Ms. Hulse:

Enclosed for filing in the above referenced matter are an original and one copy of the Closing Comments of Verizon.

If you have any questions, please do not hesitate to contact me.

Sincerely,

A handwritten signature in black ink, appearing to read "Tom Dixon", written over the typed name "Thomas F. Dixon".

Thomas F. Dixon

Atch: Closing Comments

BEFORE THE PUBLIC UTILITY COMMISSION OF OREGON

UM 1481

In the Matter of)	
)	
PUBLIC UTILITY COMMISSION OF)	CLOSING COMMENTS
OREGON)	OF VERIZON
)	
Staff Investigation into the Oregon)	
Universal Service Fund)	

Pursuant to the Telephone Conference Report issued in this docket on June 22, 2010, MCImetro Access Transmission Services LLC d/b/a Verizon Access Transmission Services; MCI Communications Service, Inc. d/b/a Verizon Business Services; TTI National, Inc.; Teleconnect Long Distance Services and Systems Co. d/b/a Telecom*USA; Verizon Select Services Inc.; Verizon Enterprise Solutions LLC, and Verizon Long Distance LLC (collectively, “Verizon”) submit these closing comments.

INTRODUCTION

Verizon is encouraged that the Commission has a particular interest in and seeks comments on Issues 5 through 13 on the parties’ issues list.¹ Indeed Issue 5 - whether the current Oregon Universal Service Fund (“OUSF”) has met the statutory goal - is the fundamental threshold question that must be considered and determined in order for the Commission to decide whether to recommend *any* changes to the current OUSF program. As Verizon has explained previously and reiterates here, the record demonstrates that the OUSF has fulfilled its purpose and can be eliminated, but in no case should it be expanded.

¹ See Telephone Conference Report issued in this docket by ALJ Shani M. Pines on November 3, 2010, under the section entitled “Closing Comments.”

COMMENTS ON ISSUES 5 THROUGH 13

A. HAS THE CURRENT OUSF MET THE STATUTORY GOAL IN ORS 759-425 OF ENSURING BASIC TELEPHONE SERVICE IS AVAILABLE AT A REASONABLE AND AFFORDABLE RATE? (ISSUE 5)

Yes. The Commission has not investigated the performance and operation of the OUSF for almost 15 years. Accordingly, it initially recommended that this investigation address seven fundamental issues similar to those identified here as Issues 5 through 13.² Verizon agrees and has consistently advocated that the Commission must, as a threshold matter, determine whether the current OUSF has met the statutory goal found in ORS 759.425 of ensuring that basic telephone service is available at a reasonable and affordable rate.

As stated in opening comments, the fund has met its goal and should be eliminated, because: 1) basic wireline service is available to more than 98% of Oregon residents; 2) significant advancements in technology and growth in competition throughout Oregon have expanded consumer options for voice service; 3) federal universal support funding for Oregon carriers has increased over the last ten years; and 4) rates for basic telephone service are not only affordable and reasonable, but telephone service is more affordable now than it was ten years ago.

Nothing in the record supports a finding that the fund has in any way failed to meet its statutory goal. If the Commission nonetheless feels that it needs further information to determine whether the fund has met its statutory goal, the best course may be for the Commission to open an adjudicatory docket, as Comcast has advised.³

² Public Utility Commission of Oregon Staff Report for Public Meeting Date - April 26, 2010 (Item No.5).

³ Initial Comments of Comcast Phone of Oregon, LLC ("Comcast Initial Comments") at 4.

If after adjudication the Commission confirms that the OUSF has met its statutory goal, then it should recommend to the state legislature that it eliminate the OUSF and relieve Oregon citizens of the growing burden of supporting telephone companies through the OUSF surcharge which, regardless of what it is called, is a tax.

B. SHOULD THE COMMISSION RETAIN THE STATUS QUO UNTIL IT KNOWS WHAT THE FCC IS DOING AND HOW THE NATIONAL BROADBAND PLAN AND AMERICAN RECOVERY AND REINVESTMENT ACT ARE IMPLEMENTED? (ISSUE 6)

This issue as stated merges two distinct issues: first, whether the fund has met its statutory goal and, as a corollary, whether the Commission should maintain the “status quo;” and second, whether Oregon should create an intrastate mechanism to support broadband deployment as contemplated by federal officials.⁴

The first issue is discussed at length in Verizon’s opening comments and in Section A above. As to the second issue, Verizon and others have argued it is premature to recommend expanding the OUSF to provide for broadband funding until at least the following have occurred: 1) federal action contemplated under the National Broadband Plan (“NBP”) has been determined; 2) the Oregon Broadband Mapping program has been completed; and 3) it has been determined whether Oregon carriers or other entities will receive federal grants to support broadband deployment under the American Recovery and Reinvestment Act (“ARRA”).

More important, the record in this proceeding contains no factual data to support expanding the OUSF in any manner, particularly to fund broadband deployment. On the

⁴ See Comcast Initial Comment at 2. Verizon concurs that the “explosion” of issues in this docket from an original 7 to an unwieldy 78 derives in large degree from the failure to separate these issues. Opening Comments of the Citizens’ Utilities Board of Oregon (“CUB Opening Comments”) at 1 (expressing frustration that “the workshops in this docket so far have only discussed the contents of the issues list, not the actual issues that Staff, CUB and other parties have concluded are germane to the discussion that this docket was created to facilitate”).

contrary, the record shows just the opposite. For example, data provided by the Oregon Telecommunications Association (“OTA”) during the workshops demonstrates that 15 of its 27 local exchange carrier (“LEC”) member companies have already achieved 100% broadband deployment, four others exceed 97% deployment, an additional four exceed 90% deployment, two more exceed 80% deployment, and only the remaining two have yet to achieve 80% deployment.⁵ CUB and TRACER also point out that the Commission should take into account existing broadband deployment requirements in Commission orders approving various mergers.⁶ Thus, given evidence of successful broadband deployment without the need for any explicit subsidy, no basis exists for extending the OUSF program into this new area.

Accordingly, based on the record in this proceeding, the Commission should take no further action in this docket to expand the OUSF, nor should the Commission recommend that the legislature expand the OUSF. Any effort to expand the OUSF and increase the surcharge imposed on Oregon citizens would adversely affect the affordability of basic telephone service, contrary to the Commission’s statutory obligation to ensure that rates for basic telephone service are affordable and reasonable.⁷

C. WHAT SERVICES SHOULD BE SUPPORTED AS BASIC TELEPHONE SERVICE IN 2010? (ISSUE 7)

If, after adjudication, the Commission ultimately determines that the OUSF has not met its statutory goal, then only basic telephone service as defined in OAR 860-032-0190(2) should continue to be supported. As the Commission stated 13 years ago, the

⁵ See Oregon Telecommunications Association, *Workshop on Oregon USF & ICC Reform, Slide 2.*

⁶ CUB Opening Comments at 4; TRACER Opening Comments at 9.

⁷ Opening Comments of Verizon Competitive Providers at 12-13.

OUSF should provide the minimum amount of support necessary to maintain affordable basic landline service.⁸ That conclusion has even more force today, as intermodal providers like VoIP and wireless companies are increasingly popular choices to meet consumers' needs for basic, affordable telephone service.

D. SHOULD OUSF SUPPORT ALL LINES? IF NOT WHAT LINES SHOULD BE SUPPORTED (E.G. PRIMARY, RESIDENTIAL?) (ISSUE 8)

Assuming only for argument's sake that the OUSF will ultimately be maintained, then in keeping with its stated goals, the Commission must seek to limit the size of the OUSF by limiting the supported lines to only a single, primary *residential* access line or wireless access account per household. In addition, in a geographic support area served by multiple eligible telecommunications carriers ("ETCs"), only one line for a single ETC should be supported.⁹ Limiting the lines or wireless access accounts supported helps to maintain affordable basic telephone service by limiting the size of the OUSF surcharge imposed on Oregon citizens. In no case should business lines be supported. Unlike residential customers, business customers may deduct telephone expenses from gross income as a business expense, and thus do not need additional overt support.

Verizon also agrees with TRACER that OUSF support should not be provided in geographic areas that receive service from unsubsidized providers, as doing so would not serve the public interest. As TRACER states, Oregon tax-payers should not be forced to subsidize uneconomic competition.¹⁰

⁸ Order No, 95-1103, Docket No. UM 731, issued on October 17, 1995.

⁹ Qwest's Opening Comments at 3.

¹⁰ TRACER Opening Comments at 6-7

E. WHAT IS A REASONABLE AND AFFORDABLE RATE FOR BASIC TELEPHONE SERVICE IN 2010? SHOULD THE COMMISSION REVIST ITS CURRENT BENCHMARK RATE FOR BASIC TELEPHONE SERVICE? (ISSUE 9)

As Verizon stated in its opening comments, the Commission is required periodically to review and evaluate the status of telecommunications services, adjust as necessary the price a telecommunications utility may charge for basic telephone service, and set a benchmark rate. When reviewing the benchmark rate, the Commission is directed to adjust the benchmark to reflect competitive changes in the telecommunications industry, changes in federal universal service support, and other relevant factors as determined by the Commission.¹¹ There has been no formal review of the benchmark rate for local telephone service in over ten years since the Commission last set it at \$21.00 per month.¹² Therefore, if the Commission is inclined, contrary to the record, to maintain the fund, it must undertake the reviews required by statute before making a final determination.

To this end, the Commission should set a statewide affordable rate for both basic residential and business services at the national average rates or the highest rates currently charged by a LEC offering these services in Oregon, whichever is greater. The OTA provided the current residential rates charged by OTA incumbent local exchange carrier (“ILEC”) members in its opening comments in Tables 5 and 6. According to those tables, the highest rate charged for residential service is \$44.35.¹³ According to the FCC’s 2008 Reference Book, the average monthly rates for flat-rated local service in

¹¹ O.R.S. 759.425(3)(b).

¹² Order No. 00-312 issued in Docket No. UM 731 on June 16, 2000, at 20.

¹³ Opening Comments of the Oregon Telecommunications Association (“OTA Initial Comments”), filed in this docket on October 25, 2010, at 8-9. These residential rates (including EAS) also include the subscriber line charge (“SLC”) of \$6.50.

urban areas nationally were \$25.62 for residential service and \$48.67 for business service, as of October 1, 2007.¹⁴

The statewide affordable rate should be the benchmark rate used to establish the revenues a recipient would have received in a supported area to offset the costs incurred to provide local service, and would be used to calculate the amount of potential OUSF support. Recipient service providers should be authorized, but not compelled, to raise their basic local telephone rates to the established benchmark rate. In the event a recipient chooses not to raise rates to the benchmark, the foregone revenue from that scenario should be imputed into the revenues used to calculate the amount of OUSF a provider could receive.¹⁵ Consumers should not be required to pay a higher OUSF surcharge if a recipient refrains from charging the approved benchmark rate.

F. THE 2003 ORDER PERMITTING SMALL CARRIERS TO DRAW FROM THE OUSF (DOCKET NO. UM 1071, ORDER NO. 03-082) CONTEMPLATED THAT THE FUND WOULD BE USED TO OFFSET ACCESS RATE REDUCTIONS. HAS SUCH OFFSET OCCURRED? IF NOT, WHY NOT? (ISSUE 10)

Staff asserts that OUSF support offsets access rate reductions,¹⁶ but the evidence is contrary to that assumption; in fact, the composite access rates of the ILEC members of the Oregon Exchange Carrier Association (“OECA”) “have been on a sharp increase since 2003.”¹⁷ On December 31, 2003, the average composite access rate charged by OECA ILEC members was \$0.04602 per minute for originating access and \$0.05810 per

¹⁴ *2008 Reference Book*, Tables 1.1 and 1.8. This rate includes the SLC, taxes, 911 and other surcharges.

¹⁵ *See also* Comments of AT&T at 10-12.

¹⁶ Staff’s Comments, Response to Issue 10.

¹⁷ *See* Opening Comments of the Oregon Telecommunications Association and the Oregon Exchange Carrier Association, filed in Docket No. UM 1423, on October 25, 2010, at 8; *see also* AT&T Comments at 12.

minute for terminating access. Six years later, on December 31, 2009, these rates had *increased* to \$0.06663 and \$0.09529, increases of 45% and 64% respectively.¹⁸

Although Staff states that the carrier common line charge has been reduced, intrastate switched access rates on the whole have *not* been decreasing since 2003, regardless of any reduction in the carrier common line charge. This upward trend is contrary to the nationwide trend over the same time period, in which regulators and policymakers have required substantial decreases in intrastate switched access rates.

Verizon agrees with AT&T that intrastate switched access rate reform in Oregon is long overdue, but reduction of intrastate switched access rates should *not* be linked to OUSF support. The inquiry into a just and reasonable switched access rate is entirely separate from the inquiry into whether targeted support is still necessary to achieve universal service objectives in some areas of the state. As Verizon and others have consistently advocated, the OUSF should not be a make-whole fund for access reductions.¹⁹ If, after their access rates are reduced, carriers believe they need to recover the lost revenues, they should look to their end users to do so.

G. IS THE OUSF MONEY CURRENTLY PROVIDED TO COMPANIES SPENT FOR THE INTENDED PURPOSE OF THE FUND? (ISSUE 11)

Staff states that OUSF support has not been directly used by Qwest and Frontier to make basic telephone service available to their consumers at reasonable and affordable rates.²⁰ Rather, OUSF payments were used to reduce and maintain rates for selected

¹⁸ See Opening Comments of the Oregon Telecommunications Association and the Oregon Exchange Carrier Association, filed in Docket No. UM 1423, on October 25, 2010, at 8, Table 2.

¹⁹ Comcast Initial Comments at 5.

²⁰ Staff's Comments, Response to Issue 11.

business services of these carriers on a revenue neutral basis. Verizon does not have sufficient information to conclude whether any of the supported carriers are using funds solely as intended, as a contribution to maintaining basic local telephone service, but Staff's observations underscore the need to avoid simply assuming, with no investigation, that carriers are using OUSF support for its intended purpose.

H. HOW DOES THE COMMISSION INSURE THAT THE OUSF MONEY PROVIDED TO THE COMPANIES IS SPENT FOR THE INTENDED PURPOSE? IS DOCUMENTATION REQUIRED? IS A REPORT REQUIRED? IS AN ATTESTATION REQUIRED? IS DOCUMENTATION CURRENTLY SUBJECT TO AUDIT AND, IN FACT, AUDITED? (ISSUE 12)

According to Staff, the use of OUSF support by small LECs is for the most part "easily tracked," but cannot be effectively tracked for the larger carriers, Qwest and Frontier.²¹ Because they are the two biggest beneficiaries of OUSF support, receiving approximately \$35 million combined in 2009 this is a significant issue.²² Further, although Staff asserts that the use of OUSF support by the small companies is for the most part easily tracked, it provided no specific information on how it tracks the use of OUSF support by small companies. Finally, neither Staff nor OUSF recipients indicated in opening comments that any past or current documentation or reports are, in fact, "attested to" or "audited," as those terms are used in Issue 12. Clearly, if the Commission is inclined to continue the OUSF, more study will be required to establish measures ensuring that all carriers, both large and small, use the support money only for its intended purpose.

²¹ *Id.*, Response to Issue 12.

²² OCTA Opening Comments at 2.

I. CAN THE COMMISSION VERIFY TODAY THAT THE OUSF MONEY PROVIDED TO THE COMPANIES HAS HISTORICALLY BEEN SPENT FOR THE INTENDED PURPOSE? (ISSUE 13)

No, as Staff, itself, discusses in response to Issues 11, 12 and 13. If, contrary to the evidence, the Commission decides to continue the fund, it is critical to implement measures ensuring that third parties, as well as the Commission, can verify that funding is used only for support of basic telephone service.

DATED: November 23, 2010

Respectfully submitted,



By: _____

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CERTIFICATE OF SERVICE

UM 1481

I hereby certify that on the 23rd day of November 2010, I served the foregoing **CLOSING COMMENTS OF VERIZON** in the above entitled docket on the following persons by email and via U.S. Mail by those who have not waived paper service, by mailing a correct copy to them in a sealed envelope, with postage prepaid, addressed to them at their regular office address shown below:

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