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Via Electronic and Overnight Delivery

April 14, 2015

Ms. Becky L. Beier  
Executive Secretary  
Public Utility Commission of Oregon  
3930 Fairview Industrial Dr SE  
Salem, Oregon 97302-1166

RE: Investigation of the Oregon Universal Service Fund, Docket No. UM 1481 Phase III

Dear Ms. Beier:

The Northwest Telecommunications Association (“NwTA”),<sup>1</sup> on behalf of its facilities-based competitive local exchange carrier members, submits the following comments as an interested member of the public in lieu of its participation in the Public Utility Commission of Oregon’s (“Commission”) upcoming April 16, 2015 workshop, in the above-referenced matter. Specifically, the NwTA responds to Question 4<sup>2</sup> to the Commission’s *Notice of Commission Workshop*,<sup>3</sup> underscoring – as the Commission itself has concluded – that the current definition of “basic telephone service” is not now ripe for amendment.

NwTA’s interest in this proceeding is based on member concerns that some incumbent local exchange carrier interests may view this as an opportunity to take another “bite from the apple” at increasing their rate-payer funded Oregon Universal Service Fund (“OUSF”) subsidies through an expansion of the “basic telephone service” definition in OAR 860-032-0190. The

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<sup>1</sup> NwTA is a regional industry association representing 15 predominantly facilities-based competitive local exchange carrier member companies serving in Oregon and throughout the Pacific Northwest. NwTA members provide a variety of telecommunications services and information services, including broadband access, through nearly 6,000 route miles of member company-owned fiber-based networks. More than 275,000 businesses and 200,000 residences in more than 549 largely rural Pacific Northwest communities have access to NwTA member company networks.

<sup>2</sup> “What constitutes available basic telephone service? What defines reasonable and affordable rates?”

<sup>3</sup> *In the Matter of Public Utility Commission of Oregon Investigation of the Oregon Universal Service Fund*, Docket UM 1481 Phase III, *Notice of Commission Workshop* (March 16, 2015).

ability of incumbents to draw further OUSF subsidies not generally available to – or necessarily desired by - competing carriers through rule amendments, inherently give incumbents financial and competitive advantages over self-funded competitors such as NWTAs members. Potential review of the “basic telephone service” definition in this proceeding creates just such an opportunity for the incumbents, and engenders these comments.

On December 6, 2013, NWTAs submitted Comments in response to an Oregon Telecommunications Association’s (OTA) *Petition to Amend the Definition of Basic Telephone Service in OAR 860-032-0190 to Include Access to Broadband* (“Petition”).<sup>4</sup> In response to OTA’s Petition, NWTAs stated *inter alia*,

incorporation of broadband access to into the definition of Basic Telephone Service would “carve out” immediate commercial benefits and continued universal service fund subsidies for incumbent carriers and a limited number of existing eligible telecommunications carriers unavailable to other broadband access providers contrary to Oregon law. If granted, OTA’s proposal will undermine competitive choice for broadband services and ultimately fail to promote broadband development in Oregon, as OTA maintains.<sup>5</sup>

NWTAs stressed that expansion of the basic telephone service definition was discriminatory,

By seeking to incorporate broadband access into the basic telephone service definition, OTA asks the Commission to create a *de facto* USF subsidy for what is otherwise a component of a competitive service in an emerging broadband market.<sup>6</sup>

and contrary to Oregon law.

O.R.S. §759.425 (1) explicitly directs the Commission to “establish and implement a competitively neutral and nondiscriminatory universal service fund.” The inclusion of broadband access as a USF supported basic telephone service is inconsistent with this requirement.<sup>7</sup>

It has been NWTAs members’ experience that expansion of USF subsidized services has historically had to propensity to demand additional funding, add financial pressure on the USF and on rate payers, and challenged USF sustainability To be sure, Oregon’s USF (“OUS”)

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<sup>4</sup> See, *In the Matter of the Oregon Telecommunications Association Petition to Amend OAR 860-032-0190 Definition of Basic Telephone Service*, Docket No. AR 577, *Comments of the Northwest Telecommunications Association* (December 6, 2013).

<sup>5</sup> *Id.*, at 1.

<sup>6</sup> *Id.*, at 6.

<sup>7</sup> *Id.*, at 7.

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surcharge rate has ballooned from 2.35 percent in 2000 to 8.5 percent in 2012 to meet growing demands.<sup>8</sup>

It is not NWTAs intent here to reargue a matter that has for the present, been squarely addressed by the Commission. To be sure, the Commission has already affirmatively determined a lack of sufficient evidence in support of adopting a change in definition.<sup>9</sup> Nevertheless, the specter of resurrecting efforts to reconsider basic telephone service definition under the guise of USF funding through this proceeding, or potentially through other related proceedings, gives rise to NWTAs concerns.

Any subsequent consideration at amendments to the basic telephone service definition should be considered with competitive neutrality and parity, and be supported by the data requested by the Commission in its *Order*. NWTAs supports the Commission's decision to defer from any amendment of the basic telephone service definition and maintains that any reconsideration of that decision is not ripe for review through this proceeding.

Respectfully submitted this 14<sup>th</sup> day of April, 2015

Northwest Telecommunications Association



By: \_\_\_\_\_

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<sup>8</sup> See <http://www.puc.state.or.us/ousf/Pages/Surcharge.aspx>

<sup>9</sup> See, *In the Matter of the Oregon Telecommunications Association Petition to Amend OAR 860-032-0190 Definition of Basic Telephone Service and In the Matter of Public Utility Commission of Oregon Staff Investigation of the Oregon Universal Service Fund*, Docket Nos. AR 577, UM 1481, Order No. 14 113 (April 7, 2014) [*Order*].