



CenturyLink™

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October 25, 2010

Oregon Public Utility Commission
Attn: Filing Center
550 Capitol Street NE, Ste 215
Salem, OR 97301-2551

RE: UM-1481 – Public Utility Commission of Oregon Staff
Investigation of the Oregon Universal Service Fund.

Dear Commission:

Enclosed for filing please find an original and one copy of CenturyLink's Opening Comments in Docket No. UM-1481.

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

Sincerely,

William E. Hendricks

cc: Service List

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**BEFORE THE PUBLIC UTILITY COMMISSION
OF OREGON**

In the Matter of

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

UM 1481

**OPENING COMMENTS
OF
CENTURYLINK**

October 25, 2010

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I. INTRODUCTION

CenturyLink appreciates the opportunity to provide its views of universal service in Oregon to this Commission as a part of this important docket. Because the issues presented in this docket are numerous, CenturyLink will limit its comments to what it considers to be the primary issues that the Commission is considering.

CenturyLink's comments will focus on the continued need for a state USF in Oregon and the critical components required for such a fund to fulfill the state's public policy goal of universal service. CenturyLink will also offer comment on some of the issues on the Consolidated Issues List.

II. THERE IS A NEED FOR THE OREGON UNIVERSAL SERVICE FUND (OUSF) AND THE OUSF SHOULD BE REFORMED

Several conditions must be present before a universal service fund (USF) is consistent with the public interest. The first condition is whether there is an existing policy of universal service, or laws and regulations affirming such a policy. If there is no universal service history or authorization within which policymakers can work, then it follows logically that no reason exists to create and/or maintain a USF. CenturyLink asserts that the historical and continuing existence of a universal service obligation for basic voice service is indisputable and exists in Oregon. The State of Oregon has recognized the universal service obligation and established the OUSF to assist in the

delivery of universal service. CenturyLink commends the state's efforts to establish explicit USF support and to periodically evaluate the OUSF.

The unprofitability of providing basic voice services to areas of low-population density is a timeless issue and dates back to the origins of the telephone industry. Policymakers quickly realized that in order to embark on a policy of universal service, financial support directed to these areas would be necessary. Accordingly, the history of universal service policy in America is long one, and fortunately, is a true national success story. However, changing market and technological forces require significant changes to universal service policy.

In Oregon, other U.S. states, and the federal level, policymakers have a long history of supporting universal service for basic voice service. Approximately 100 years ago, AT&T President Theodore Vail famously stated that "one policy, one system, and *universal service*" was the best course of action for America's communication network.¹ Universal service policy has been generally recognized as an overwhelming success, as the number of Americans connected to the public switched telephone network (PSTN) has grown from less than 40% in the 1930's to over 95% by the mid-1990's; a clear indication that the policy goal has been largely achieved for basic voice service. During

¹ Kingsbury Commitment letter of 1913, where AT&T settled an anti-trust investigation with the U.S. Government. This letter is generally regarded as the nation's initial recognition of a policy of universal service. The following link provides an overview of the main points in the Kingsbury Commitment. <http://www.technologyforall.com/TechForAll/legalHistory.html>

the long period of monopoly, universal service policy could be achieved through Incumbent Local Exchange Carrier (ILEC) cross subsidization whereby low-cost areas subsidized high-cost areas (e.g., urban to rural), optional services subsidized basic services (e.g., long distance to local), and business customers subsidized residential customers. However, with the advent of competition, these traditional mechanisms eroded away. New explicit funding mechanisms were required in order to achieve universal service goals.

Funding universal service is a critical component of the policy. Clearly, ILECs have been the delivery mechanism of universal service policy throughout this 100+ year period. Prior to the competitive era, ILECs were the only option to achieve the policy objective and the internal subsidization system provided sufficient funding support to realize the goal. However, once competitors entered the market and because these competitors were not subjected to the same regulations as the incumbent providers, explicit USF support has become the only viable means to achieve continuing universal service policy.

Examples of disparate regulation between ILECs and their competitors are numerous. Non-ILECs are not required to serve “all” – they do not have the burden of universal obligations. Non-ILECs are able to choose to serve only lower-cost customers, those within the city limits for example, and avoid serving higher-cost rural customers. Conversely, ILECs do bear the burden of serving “all” – they cannot refuse to serve

higher cost areas/consumers. Further, ILECs bear pricing and service obligations generally not borne by non-ILEC competitors.

For these reasons, USF funding must be 1) explicit and 2) the calculation of the level of support needed to fulfill the universal service policy objective must be determined by the characteristics of the area/consumer served and not by the size or characteristics of the provider. To attempt to determine funding at the ILEC company level – as has been done historically – becomes an ineffective level of analysis when the company faces highly variable levels of costs and varying areas of competition.

Once competition enters the market, each customer effectively becomes a separate business case. Public policy can no longer rely on ILECs to cross subsidize from competitive areas to non-competitive areas. Continued reliance on ILECs creates a competitive disequilibrium and disadvantages the ILECs in the areas subject to competition. Such policy will unfairly weaken the ILEC in terms of market share, profitability or both. The current uneven market conditions produce a result whereby each customer must stand or fall on his own profitable merits. This is why ILEC company-level analysis is a 1980's era regulatory anachronism. Effective policy in the 21st century's uneven competitive framework requires a greater level of sophistication. Support must be targeted to high-cost areas consistent with underlying economics and the lesser degree of competition. A stable, sufficient, properly targeted USF must be established and maintained to stand in the gap for unprofitable customers and be the

mechanism that continues the long-standing policy of successful universal service. Absent such a framework, the remaining options are to either 1) affirmatively end decades-old universal service policy or 2) force unsustainable, unfunded mandates onto ILECs. Although not affirmative, unfunded mandates will effectively end universal service policy over time.

Having established that universal service policy is extant for basic voice service and that a stable, sufficient funding mechanism is necessary to achieve the policy goal, it is fair to ask if state-level USF, such as the OUSF, is necessary or should Oregon policymakers rely exclusively on the federal government to sufficiently fund and implement universal service policy. Although it is possible that the federal USF program may eventually prove sufficient to achieve the objective of universal service, CenturyLink believes that states should establish state-level USF's. A state-level USF is a real opportunity for a state to control more of its destiny, reduce reliance on the federal system, and tailor its state-level USF policies consistent with its unique situation and preferences. It is no secret that the federal USF is under pressure. The federal USF has expanded its scope far beyond its original purpose of high-cost support in recent years to include funding low-income programs, rural healthcare programs, schools and libraries, and competition. Without commenting on the merits of these individual programs, the fact is that these programs have increased the size of the fund and the burden on contributors. Accordingly, the nation's largest carriers and several of the

most populated states, which tend to be net payors into the federal USF, have lobbied to reduce the size of the federal USF. CenturyLink believes states that establish their own USF programs are wisely taking steps into increase their level of control of universal service policy and “hedge their bets” vis-à-vis the federal USF program. In doing so, these states gain the ability to tailor the funding of specific areas and services in accordance with state-specific preferences.

Significantly, Oregon opted to establish the OUSF which has helped to advance universal service policy goals in Oregon. CenturyLink supports the OUSF in concept, but believes that it must be structurally modified in the future to be better positioned to achieve universal service goals in the 21st century.

III. THE OUSF SHOULD BE MODIFIED TO INCLUDE BROADBAND SERVICES

Finally, CenturyLink provides comment regarding what services should be funded by the OUSF. The OUSF should be expanded to include a defined level of broadband services, in addition to narrowband services. There is no need to establish separate funds for narrowband and broadband services. CenturyLink supports funding a speed level consistent with the FCC’s National Broadband Plan², approximately 4Mbps downstream and 1Mbps upstream.

² The National Broadband Plan is available at <http://www.broadband.gov/plan/>

IV. KEY COMPONENTS OF AN EFFECTIVE STATE USF

CenturyLink believes an effective state USF will include the following components:

- Direct funding to granular areas of greatest need, based on cost. A wire-center level basis of funding determination is preferred, but in the alternative, other similar or smaller geographical demarcations can be utilized.
- Provide sufficient levels of funding to accomplish the public policy goal. If the OUSF is modified to require the provision of basic voice and a 4/1 Mbps broadband service, forward-looking cost models can be an effective method of funding quantification.
- Fund availability, not competition. Funding should only be provided to one provider per area and areas that are overwhelmingly subject to competition from an unsubsidized competitor should be ineligible for funding support.
- Providers who receive funding must accept the COLR obligation in the funded area.
- Require all providers to participate in the funding process. A per-connection or per-telephone number assessment should be developed as a means of collecting the necessary level of funding that is eligible for disbursement.

V. IF A STATE USF IS UTILIZED IN THE FUTURE, CERTAIN CONSIDERATIONS MUST BE REJECTED IN ORDER TO ACHIEVE UNIVERSAL SERVICE

- Policies based on the size of the provider. Rules that eliminate companies from participating in USF distributions solely based on its size are a legacy of the monopoly area and will result in universal service policy not achieving its objectives in the 21st century marketplace where competition pervades lower cost areas. Such rules would deny funding needed to support consumers living in high-cost areas served by large companies, while providing funding to similarly situated customers who are served by smaller carriers. Such policy would be discriminatory to the larger company and its consumers who live in its high-cost area, who would be less likely to have voice and broadband services available to them.
- A consumer voucher program. Because of the highly fixed-cost nature of communications networks and the required scale characteristics to maximize efficiency, a consumer voucher program would fail to achieve universal service policy objectives as consumers could spread their vouchers among multiple providers and create a scenario where none of the providers could sustain the ability to provide service in high-cost areas.

V. CONCLUSION

CenturyLink appreciates the opportunity to file these comments and looks forward to participating further in this docket.

Respectfully submitted this 25th day of October, 2010.

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CERTIFICATE OF SERVICE
UM-1481

I certify that on October 25th, 2010, a true and correct copy of CenturyLink's Opening Comments in the above Docket were served via email and paper copy when applicable, on the following:

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