

**BEFORE THE PUBLIC UTILITY COMMISSION
OF OREGON
UM 1481**

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

STAFF'S COMMENTS

Need For an OUSF

1. *Is there a need for an Oregon Universal Service Fund (OUSF)?*

The OUSF was brought into existence by ORS 759.425 to meet the needs of Oregon residents for affordable, basic telecommunication service. The underpinning of ORS 759.425 was the principle laid out in Section 254 of the Telecommunications Act of 1996 (Section 254), which stated:

Consumers in all regions of the Nation, including low-income consumers and those in rural, insular, and high cost areas, should have access to telecommunications and information services, including interexchange services and advanced telecommunications and information services, that are reasonably comparable to those services provided in urban areas and that are available at rates that are reasonably comparable to rates charged for similar services in urban areas.¹

Since 1996, the need to have affordable and reasonably comparable service has not changed. The same conditions that produced the policy statement still exist: low income consumers and pockets of high cost service produced by low densities, difficult terrain, or a combination of both. Since 1996 communication requirements have increased further widening the gap between people residing in high-density, low-cost areas and those in low density areas. With the expanded requirement for advanced services such as broadband, it has also expanded the difference between service available to the population as a whole and those available to low-income customers. With the increased requirement for basic and advanced services, the objective stated in the principle cited above has become more important, not less.

¹ The Telecommunications Act of 1996, 47 U.S.C. § 254(b)(3) (referenced hereafter as "Section 254").

Although the federal and state programs have been successful in achieving penetration rates above 90%, it is likely that these penetration rates would rapidly drop should the prices start rising as a result of the support being discontinued.

2. *Is there a need for an OUSF to fund narrowband telecommunications service?*

Yes, there is a need to ensure that affordable and reasonably comparable narrowband telecommunications services are available to everyone in the state of Oregon. Over the past several years, the number of low-income households has grown, not diminished. Narrowband phone service, beyond Lifeline, provides a means of searching for jobs, communicating with businesses and other households, and getting help in case of emergencies and requires no additional equipment beyond a relatively inexpensive telephone. Although broadband networks may supplant voice grade networks in the near future, there still exists the requirement for additional equipment and a certain level of expertise to use them that has acted as a barrier to low income households.

3. *Is there a need for an intrastate mechanism to fund broadband?*

Yes, there is a need for a fund supporting these services to make them affordable to low-income customers and customers located in high cost areas. The goal of such a fund should be the specific targeting of areas and customer groups that would not otherwise have access to broadband services. This access does not necessarily have to be at the household level, which is important for narrowband services; searches and e-mails do not have to be on a real-time basis to be effective. The potential need for broadband services was stated in the Section 254 policy cited earlier when it addressed the need for advanced and information services.

The scope of a broadband fund could be fairly narrow, targeting only specific customers and regions that have not been served. As a result of the conditions imposed in the mergers involving Verizon and Qwest and the deployment of broadband networks by the smaller companies, most customers will have access to broadband services in the very near future. These actions address what the Federal Communication Commission (FCC) refers to as the last-mile and at the speed requirement considered to be the present standard for broadband, but they do not address the need for high-speed connections between anchor institutions located in low-density, high-cost areas.

4. *Assuming there is a need for an OUSF to fund both narrowband and broadband services, should there be a separate Fund for each?*

It is important to first note that it would require a statutory change to allow the OUSF to support broadband services. Staff's response to this question, and other questions concerning broadband services, is premised upon this understanding.

No, there should only be one OUSF, with two or more funds operating under that general umbrella. By having only a single OUSF with multiple funds under it, it is possible to simplify the process by having only a single fee paid into the fund. Having multiple funds under a single umbrella would also allow the smooth transition from one objective to the next objective. It would also allow funds to be quickly brought into existence or eliminated as conditions change.

Over the past ten years the OUSF has consisted of multiple funds: one fund directing money to the non-rural companies, another fund directing money to the rural companies, and a final one being used to direct money to broadband mapping. While the function of these funds was loosely defined in the past, going forward there should be specific objectives and benchmarks.

The Current OUSF

5. *Has the current OUSF met the statutory goal found in ORS 759.425 of ensuring basic telephone service is available at a reasonable and affordable rate?*

The current OUSF has not been directly used to make basic telephone service available at a reasonable and affordable rate, but the statutory goal was met via an indirect approach. For GTE (now Frontier) and US West (currently Qwest) the OUSF payments were used to reduce, and keep at the present level, selected business rates on a revenue neutral basis. Revenue neutral means that for every dollar the company received in support there was a dollar reduction in revenues as a result of price decreases.

For the small companies, the OUSF payments were and are used to reduce the Carrier Common Line Charge (CCL) component of their intrastate access rates on a revenue neutral basis.

6. *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?*

No, the Commission should start making changes to the OUSF sooner rather than later to improve. Sources of ideas for improvements will be the comments filed by the parties in this docket.

7. *What services should be supported as basic telephone service in 2010?*

Administrative Rule 860-032-0190 defines “basic service” consistent with ORS 759.400(1) as retail telecommunications service that is single party, has voice grade or equivalent transmission parameters and tone-dialing capability, provides local exchange calling, and gives customers access to EAS, long distance, directory assistance, and operator services. For 2010, these should be the services that are supported, so they are available at reasonable rates and relatively comparable in quality across the state.

8. *Should OUSF support all lines? If not what lines should be supported (e.g. primary, residential)?*

No, the OUSF, as its charter is presently laid out, should not support all lines. Included for support are primary residential and business lines, PBX trunks, Key lines, and Public Access lines. The intent in restricting the support to just these lines was to control the size of the fund to avoid the ambiguity of using “equivalent channels” as a proxy for lines, and to not have to address the significant difference in cost per line of providing high capacity systems.²

9. *What is a reasonable and affordable rate for basic telephone service in 2010? Should the Commission revisit the current benchmark rate for basic telephone service?*

Within the context of the current OUSF it would be pointless to speculate on what a reasonable and affordable benchmark rate would be today. It would also be pointless for the Commission to revisit the current benchmark.

When the benchmark was developed, it was the average economic cost of providing service, derived from the FCC model using the combined GTE-US West serving areas. The benchmark was not based on an estimate of a reasonable and affordable rate. The benchmark was used to separate wire centers into two groups: those whose economic cost was above the benchmark and those whose economic cost was below the benchmark.

At this time, changing the benchmark would not impact the non-rural companies whose economic cost was calculated using a model that has not been updated since the late 1990s. Similarly, changing the benchmark most likely would not impact the rural companies either, since their support per line has been effectively frozen since 2003.

² An equivalent channel refers to the number of voice grade paths that can be produced by a transmission level, such as a DS3.

10. *The 2003 order permitting small carriers to draw from the OUSF (Docket UM 1017, Order No. 03-082) contemplated that the fund would be used to offset access rate reductions. Has such an offset occurred? If not, why not?*

Yes, the offset has occurred and is occurring each year. The OUSF support per line that each company receives is used to reduce its Carrier Common Line (CCL) revenue requirement. This reduction takes place each year when the Intrastate Access rates are calculated for the companies participating in the OECA access pool. The effect of this reduction is to reduce the CCL component of the intrastate access charge rate.

11. *Is the OUSF money currently provided to companies spent for the intended purpose of the fund?*

Yes, see the response to Question 5.

12. *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?*

Each year the intrastate access rates are developed for the rural companies and the OUSF support is applied directly against the CCL element of these rates. With the exception of some small amounts, the use of the funds by the small companies is easily tracked. For the two large companies the Commission currently has no effective way to determine how the money has been spent. Staff will review the parties' opening comments and reserves the right to supplement this response in the next round of comments.

13. *Can the Commission verify today that the OUSF money provided to companies has historically been spent for the intended purpose?*

See response to Question 12.

Future Objectives of an OUSF

14. *What key public policy objectives should be supported through an OUSF?*

The key public policy objective should be based on the principle stated in Section 254. That objective for Oregon should be as follows:
Consumers in all regions of Oregon, including low-income consumers those in rural and high cost areas, and those on reservations should have access to

telecommunications and information services, including interexchange services and advanced telecommunications and information services, that are reasonably comparable to those services provided in urban areas and that are available at rates that are reasonably comparable to rates charged for similar services in urban areas.

There are also secondary policy objectives that should be considered as well: the development of an infrastructure that supports the growth of jobs throughout Oregon, the development of a network that ties together key institutions, and the transitioning of incumbent telecommunications companies that are seeing their support diminished while being impacted by federal-level policy changes.

15. *How do Oregon Universal Service fund(s) advance the Commission's universal service goals?*

The Commission's universal service goals or policy objectives, as discussed in Response 14, generally require special funding since the key element of the policy focuses on providing services and levels of service in areas where it is generally uneconomical to do so, yet socially responsible to do so. In these areas it is not reasonable to assume that private companies will pick up the cost of providing the service. The Oregon Universal Service fund(s) can defer all or part of the cost of providing service in those specific areas by collecting a small fee from all telecommunications users.

16. *How is progress toward OUSF goals measured?*

The key element of measuring progress toward OUSF goals is to have clearly stated goals with a set of milestones against which progress can be measured and a system of reimbursement that is consistent with the project being funded. If the project involves making a specific investment, the support payments should be based on a percentage of completion or some similar method for contract payment. If the payments are used to defer the ongoing maintenance or support of a project, then the pattern of payments should match the disbursements.

17. *Should the OUSF support multiple funds, each fund targeting a specific goal (e.g. compensation for access rates reduction, broadband expansion, special projects or voice service vouchers to offset access rate reduction rate rebalancing)?*

Yes, depending on the final set of policy objectives selected, the OUSF should be structured so that there is a fund within it that clearly supports each of the objectives. This would facilitate a clear measurement of how well each fund is meeting its goals and allow money to be transferred from one fund to another as the objectives of a fund are completed.

This structure would also allow new funds to come into existence as the need arises and statute permits. The final value of having multiple funds under the OUSF is that it would allow the costs and benefits of each fund to be compared and the amount of money in each fund determined by the relative benefit. This would allow the allocation to each fund to be adjusted as well as its overall size.

18. *Should access reform be an integral part of OUSF reform? Should any portion of the OUSF fund be used to offset access rate reductions?*

As a practical matter, access reform cannot be separated from OUSF reform. At this time, a portion of the present OUSF is currently dedicated to reducing intrastate access rates for the small companies by reducing the CCL charge element. This use of the fund was dictated by Orders No. 03-082 coming out of UM 1017.

If access rates are forced down, the companies receiving the access revenues will be forced to recover the lost revenues by raising prices to their customers.

19. *Should any portion of the OUSF be directed to providing vouchers to individuals, who qualify based on income, impacted by increases in basic service charges resulting from mandatory access rate reductions?*

Vouchers provide a highly focused way of targeting support and measuring whether the support is working as intended. A major strength and weakness of a voucher system is that it allows the individuals to pick their service provider; this could lead to customers in the higher density areas of a wire center, where there could be competition, abandoning the wireline network. If this happened, the per line cost of providing service for those customers remaining on the wireline network would increase. Another potential weakness of vouchers is they require a set of criteria to determine who gets them and who does not, with potentially many borderline cases. This could lead to a fairly high administration cost.

As a practical matter, there are a number of issues that would need to be worked out before vouchers could be used to offset the impact of rate re-balancing driven by access rate reductions.

20. *Should any portion of the fund be used for loans or grants for specific voice grade or broadband projects? If a portion of the fund is used for such a purpose, what qualifications must the grantee possess to receive funding?*

Having a fund under the OUSF umbrella that is dedicated to providing loans or grants for specific voice grade or broadband projects would be very useful in

promoting investment in areas, which without some support could not be justified. It would also provide a better way of monitoring projects, as was discussed in Response 16.

21. *Can the cost of providing service in high cost areas be recovered by increasing rates to the customers in those high cost areas while meeting the affordability test under 47 U.S.C. §254(b)(1) and (2) and others, while providing vouchers to customers who meet the income/wealth tests? If so, should it?*

To the extent that there is no comparably priced competition in the area, the cost of providing service in high cost areas can be done so it meets the affordability test. After the prices are increased, the affordability test can be met by using vouchers to assist the customers for whom the service is now no longer affordable.

If there is a competitor with a comparably priced service, raising prices will result in a loss of customers to the competitor, which in turn will drive up prices; these higher prices will result in further losses. This process will continue until there are effectively no customers left.

22. *As a larger number of households opt for wireless service instead of wireline service, is there a need to support the wireline network in rural Oregon?*

At this time there is a need to support the wireline companies, in particular the small wireline companies, even though wireless services are becoming more pervasive. The small companies still account for tens of thousands of customers primarily located in the rural and high cost areas. Aside from the telecommunications and data services that they provide for their customer base, they are also an important source of jobs in communities that would otherwise have no or a minimal employment base. As recipients of funds from other parts of the state and from other parts of the country, they bring an infusion of cash into the communities where they are located that would otherwise not be there. For no other reason, this makes them important.

From the standpoint of the service that they provide, the wireline companies and the wireless companies are to some extent interdependent, with the wireless companies purchasing special access facilities from the wireline companies.

23. *Should one of the purposes of the OUSF be to fund worthy communications-related projects, similar in scope to those that were being funded by ARRA?*

There are a number of complex implementation issues that would need to be addressed, but having a fund in the OUSF that focuses on financing projects rather than making monthly payments would allow more control over how OUSF

money is spent. In the case of new projects, tracking could be done to ensure the money is invested as it should be. In the case of existing projects, a one-time payment could be made to the company to take the investment off of its books and reduce the companies' cost of providing service.

24. *Should it be a specific objective of the fund to ensure that under-served areas get the needed communication services to create parity throughout the state of Oregon?*

No, it should not be the objective of the fund to produce parity throughout the state. There should be core communications services that should be available to all communities throughout the state, but this is not the same as having parity. Some services by their nature are not a necessity and are too expensive to provide outside of high density areas. Also, there are some remote locations where there are only a few households being served. These locations, by their nature, cannot be expected to have service fully comparable with that found in the rest of the state of Oregon.

25. *Should there be OUSF funding where a large percentage of the funded area has unsubsidized competition today?*

With the present fund, there generally is no funding in areas where a large percentage of the area has unsubsidized competition. These are the high and medium density areas, wire centers for the two large companies and the entire serving area for the rest, where the cost of service is below the benchmark rate and the support is zero.

Even if there is a large percentage of unsubsidized competition in an area where the incumbent is receiving support, the competitor could be operating in the high density portion of the serving area. The high cost of providing service can generally be attributed to the customers residing outside the core area. The company receiving support is required to serve all of the customers in the area; the unsubsidized company is not required to do so. This allows the unsubsidized company to pick the relatively high-density areas to serve while bypassing the relatively low-density areas that are expensive to serve. This can happen at any geographic level: wire center or total company.

Future Size of the Fund

26. *Should the size of the fund be directly tied to its objectives (e.g. supporting voice service in high cost areas, expanding broadband service to currently un-served areas, providing on-going support for voice and broadband service in high cost areas)?*

The size of the OUSF should be directly related to the functions that it is designed to perform and should be relatively free to expand or contract within a range as those functions evolve over time.

27. *Should there be a stated limit on the size of the OUSF? If so, how should it change over time or as the federal jurisdiction assigns more cost to the state jurisdiction? Should there be: 1) mechanisms to reduce the fund over time; 2) mechanisms to periodically review whether the fund is still needed; or 3) associated triggers for determining whether unfunded competitive offerings are sufficient to do away with funding?*

The size of the OUSF should be tied to the programs that it is supporting and not to some arbitrary dollar amount. Control of the fund size should be done through controlling the programs covered by the fund and through controlling the assessment rate once the size of the fund has been established.

28. *Before determining the size of the universal service fund, should local service rates for companies receiving money from the fund be brought up to a minimum, state-wide, zone specific rate? If yes, how should these rates be determined?*

Without knowing the programs that are going to be sponsored by a new OUSF and what actions are going to be required of the companies, it is difficult to say what actions the small companies should take. Minimum state-wide, zone specific rates seem reasonable, but they may not turn out to be reasonable for low-income areas. If they are significantly higher than the current rates they may produce line losses, which will drive up the per line cost of service.

Future Requirements for Receiving Money from the Fund

29. *Should there be a revenue test or a profitability test as well as a cost test for determining eligibility of a company to receive money from the fund? If yes, which revenues should be included?*

If support is directed to a company as opposed to an individual, total profitability of the company in the area being supported should be considered when determining the amount of support that a company receives. Presently, only federal support is used to reduce the support level. Other items, such as DSL revenues or revenues derived from providing internet services, should also be used to reduce the company's revenue requirement. Support should be based on what is required to make the company profitable in a particular serving area.

30. *Should competitive bidding, or other similar mechanisms, be considered in order to ensure the smallest burden possible on all consumers who support the fund?*

Competitive bidding is not an effective way to ensure the support being provided is the smallest possible. Competitive bidding to provide service in a specific geographic area assumes that the bidder has the capability of providing service in that area and can provide service to all of the customers presently being served.

If a competitor has effectively taken over the serving area of an existing company, with the exception of a few pockets, and is willing to add the remaining customers if it receives support for them, then the support should be terminated to the incumbent and the competitor should become the designated provider. The only support the competitor would receive is for the small pockets that were not cost effective to provide service to.

31. *If the fund provides ARRA type grants, what qualifications are required of the bidding companies and what are the requirements for information to be included in the bid?*

This is an implementation question. If an ARRA type grant process is adopted for consideration, all of the issues of company qualifications, project selection criteria, and the nature of the grants or loans need to be thoroughly reviewed.

Future Requirements: Company, Customer, or Specific Geographic Area

32. *Should the support go to communication consumers in the form of vouchers in a high cost area or should the support go to the specific company serving that consumer?*

Presently, support is paid to the companies on a per line basis and if that line is lost to an eligible competitor, the support goes to the competitor or if the line is lost to an ineligible competitor the support goes away completely. There are only two material differences between this and a voucher system: the customer is unaware that they have this money, and only the incumbent or an eligible ETC is allowed to receive the money.

33. *If vouchers are provided to consumers, should providers price their service in high cost areas at cost?*

No, the prices in general should not be set at cost. Even if every customer were to receive a voucher to offset a price set at cost, such a price could drive the customer to seek an alternative service provider, with the result that the cost per line for the remaining customers would increase.

A critical issue with high cost service areas is maintaining the customer base, particularly those in the relatively low cost sections of the serving area where there may be alternative service providers. As this group of customers is lost, the overall cost to serve will rise rapidly and the required support increases.

34. *How should on-going support be targeted to high cost areas that contain no unsubsidized competitor?*

There are a number of ways that support can be provided to a high cost area. The one that is commonly used presently is a per line support paid on a periodic basis (monthly, quarterly) to the company. An alternative form of support would involve having the fund provide a grant to cover the cost of the initial investment and have the periodic support cover ongoing maintenance and repairs. If this type of process were adopted for consideration, the details would have to be worked out in the implementation stage.

Future Accountability

35. *How should the Commission ensure that the money provided to the companies is spent for the intended purpose?*

This is an implementation stage issue and is highly dependent on what is going to be supported by the fund. At a high level, it would be useful for tracking purposes to see the money received from the fund carried in an account on the company's books. It would also be useful to see a list of withdrawals from the accounts that were used to cover explicit expenses related to supporting the high cost areas. Further, it would be useful to see what portion of the expenses booked to specific expense account was covered by the fund.

36. *What type of accountability measures should be in place to ensure that money paid out from the fund is used for the purposes for which the fund is established, including that the OUSF receipts are spent in Oregon?*

See response to Question 35.

37. *How should the Commission ensure that the money provided to the customers in the form of vouchers is spent for the intended purpose?*

This is an implementation stage issue and needs to be addressed in depth at that stage, but in principle, there should be a periodic investigation conducted to determine if the vouchers are going to the right people and are being used as intended. This can be done by taking a periodic sample of the recipients and

determining what portion of the vouchers are being incorrectly distributed or misused.

38. *Should the companies receiving money from the fund be required to show the total Oregon earnings of the company?*

This is an implementation stage issue and needs to be addressed in depth at that stage. There are a number of issues regarding product lines and subsidiary companies that need to be addressed in depth; however, as a principle, a company's total communications earnings should be considered when determining if a company needs support for serving a particular geographic area.

39. *Should the companies that have been receiving money from the fund be required to itemize how they have spent the money?*

For all of the companies participating in the Access Pool it is clear that the money has been used to reduce the CCL component of access rates on a revenue neutral basis. For the two large carriers, the money was used to reduce business rates on a revenue neutral basis. In the future, depending on the nature of the funds supported by the OUSF, the use of the money should be tracked as flows in and out of accounts, but not on an itemized basis as this would be too difficult to collect and analyze.

40. *If one of the goals of the fund is to distribute the funds in an efficient, targeted manner that avoids waste and minimizes the burden on Oregon customers, how should this be executed?*

This is an implementation issue that needs to be addressed once the specific goals of the fund or funds that will make up the OUSF have been determined. The general principle that needs to be followed at that stage is the need for frequent, periodic monitoring of how the money is being used and periodic reviews of need for the fund. Also, the payment methods need to be structured so they are consistent with the company's expenditures: if it is a one-time investment, the payment from the fund should reflect that; if it is to cover monthly expenses, the payments should be monthly.

41. *If a benchmark for voice grade service is used to determine support, such as it is presently done, should that benchmark include mandatory EAS?*

If the methodology used to set the existing benchmark, which is cost based, were used going forward, the incorporation of mandatory EAS would have only a minor impact on the level of support provided to the various companies. The addition of

the cost for mandatory EAS could increase the benchmark level, but it could also increase the cost of providing service for each of the companies, with support staying the same as the net effect.

42. *Should all or part of the money received by a company for the support of a specific wire center be spent on that wire center?*

No, the money from the OUSF should be directed toward the high cost wire centers as a pool, but there should be no requirement that the money received from the OUSF for a specific wire center should be spent on that wire center. There are timing issues that would make it difficult to cover investments and expenses for the wire center on that basis.

On a pooled basis, the larger companies could set up a tracking account for the money received from the fund and disbursed to its various expense and investment accounts where expenditures for areas in the high cost pool are tracked.

Future Look at Carrier of Last Resort (COLR) Obligations

43. *Should a company receiving support be a required to be a COLR?*

No, companies should not be required to be a COLR to receive money from the OUSF. The concept is currently too vague to make it a requirement for support and it will become even more vague in the future as expectations about geographic coverage change with wireless service.

44. *What role does the COLR play going forward? Should there be a new definition of the COLR obligations to reflect current expectations of communications customers?*

As stated in Response 43, the concept of COLR is presently too vague to use it as criteria for receiving support. The future will become even more vague as customers' expectations change. Customers are starting to have different expectations about their communications service. When the present OUSF was started, voice grade service to one's home was the expectation. Today, the expectation is rapidly evolving where communications service users expect to be able to communicate with anyone, anytime, anywhere with a variety of forms of communication ranging from voice to multi-media applications.

To meet this expectation, the communications service provider must be able to keep the person linked over a large geographic area, not just the serving area of the wireline service providers. This would imply that the COLR must be able to connect the person almost anywhere, not just their home.

45. *Should the COLR be required to provide service to all potential customers in its service territory?*

No, assuming there is such a designation, the COLR should not be required to provide service to all potential customers in its service territory. There are cases where an individual has elected to live in a remote place where it is unreasonable to expect any communications provider to serve the person. The issue of when the COLR does not have to provide service or can bill the customer for all or part of the cost is an implementation issue and will vary with how COLR is finally defined.

46. *Should COLR obligations be based on any one technology such as wireline or wireless?*

No, with the changes in expectations that are taking place as communications service change, the COLR obligation, if there is one, should not be based on one technology. In the near future, it is possible that the COLR obligations may only be met by wireless technology, which permits the user to carry their phone with them wherever they go and transmit both voice and data. At this time, however, both wireline and wireless technologies should be considered. COLR obligations should be technology neutral.

Future Broadband Deployment

47. *Should a company receiving money from a broadband fund be required to be a COLR?*

No, it is not necessary for a company receiving money from a broadband fund be a COLR. If disbursements are made in the form of grants, the grants could conceivable cover interoffice facilities, last mile facilities, or software and facilitating hardware. For only the last-mile obligations would the concept of COLR have any meaning. Further, if communications start to look like wireless service with no specific geographic boundary, the concept of COLR completely changes.

48. *Should one of the objectives of a broadband fund be to have every home that has broadband be able to access it at a minimum standard upload and download speed? Other objectives?*

No, a broadband fund should not dictate a minimum standard speed. For most wireline customers receiving service from the rural companies the issue has already been resolved. For wireline customers served by the non-rural companies

the issue will likely be resolved shortly since DSL service levels is one of the conditions of the mergers.

49. *How should the standard for broadband service be determined? Should there be multiple standards depending on customer distance from the serving location?*

The standards that should be adopted for broadband service are an implementation issue that needs to be addressed at that stage. In principle, there should be multiple standards varying by distance from the serving location. These standards should reflect locations where the cost of providing service at a given level takes significant jumps.

50. *Should the level of support be tied to the speed of the service?*

This is an implementation issue. As a general matter, assuming there are multiple zones with multiple standards based on the distance from the serving location, it is not unreasonable that support within a zone should be tied to the speed of the service.

51. *Should the focus of a broadband fund be on the middle-mile, the last-mile, or something else?*

This issue is an implementation issue and requires more data before a determination can be made of what projects need to be supported.

52. *With most of the small companies already providing broadband service to a high percentage of their customers and the large companies being required to do the same as part of settlement conditions, is there a need for a fund focused on broadband service?*

The proper place to discuss this issue is the implementation stage where there will be more data available on which to base a judgment. In principle, the OUSF should have a fund to address broadband projects, which could be middle-mile, last-mile, or other. This fund would have a variable amount of money available to fund projects that meet the general objectives proposed by the governor.

53. *Should a company that receives OUSF be required to provide access to all its customers at the same speeds, ensuring that customers in rural or poorer communities receive the same quality of broadband throughout Oregon?*

No, companies that are receiving money for broadband services should not have to provide the service at the same speed. There are significant cost differences that are density and distance-based that need to be considered. Actual speeds provided to the different areas are an implementation issue and should be determined at that time.

Future Look at Companies Receiving Support

54. *Should there be a restriction on the size of the companies that can draw money from the fund?*

Depending on how the OUSF is ultimately structured, there should be a size restriction on companies receiving money from the fund. One purpose of the fund should be supporting companies that do not have the financial wherewithal to serve high cost areas without getting support; the companies that need support are ones with just a few serving locations and at least one of those is high cost.

Large companies, serving multiple states for which these high cost offices are a small portion of their portfolio, do not need to be drawing from the fund to support these operations. With the present OUSF, these companies received from the fund last year, on a combined basis, \$37 million dollars or approximately 80% of all disbursements.

55. *Should the number of companies receiving support be restricted? If yes, what criteria should be used?*

The number of companies receiving support should not be restricted by arbitrarily selecting a number of recipients or freezing the number to those presently receiving support. Any restrictions on the companies receiving support should be established during the implementation stage once the specifics of the fund have been established.

56. *What geographic coverage requirements should there be to qualify for OUSF support? How should this coverage be defined?*

This is an implementation question since it requires knowing the final structure of the fund or funds making up the OUSF. At a policy level, there should not be geographic restriction. As an example, assume that both wireline and wireless companies are eligible to receive money from the fund, but there is a geographic restriction that is going to be imposed. If the wireline company were forced to match the wireless company's serving area it would not be able to do so; likewise, if the wireless company were forced to serve all of a wireline companies customers, it is unlikely that it would be able to do so.

57. *For companies receiving OUSF, should the companies be required to provide services to customers in high cost areas without these customers paying higher rates or receiving lesser quality services than other company's customers in urban or suburban settings? What are just, reasonable and affordable rates? What are reasonable line extension charges? Should rural customers needing a line extension be required to pay additional installation costs, above and beyond those of urban customers?*

No, companies providing services in both low density rural areas and high density suburban and urban areas should not have to have the price and the quality be the same for those services. There should, however, be zones based on cost and density where the prices are the same and the quality is comparable within the zone.

58. *Should companies be able to use fixed wireless facilities to provide high speed services to residents in geographically difficult areas and receive OUSF funding?*

Under the current system, wireless providers can receive support from the fund if they take the necessary steps, so wireless technology is not in and of itself excluded by the fund. In the case of fixed wireless, there are already companies receiving money from the fund that are using that technology or radio systems to provide service. The distinction that is made involves the general means for providing service: if the company is predominantly wireless, the wireless guidelines are applied; if the company is predominantly wire line, those guidelines apply.

59. *Should companies receiving OUSF be required to provide the same level of advanced services to all of its customers, or is it enough just to "provide access" to any level of these services?*

As a practical matter, companies receiving money from the OUSF should not have to provide the same level of advanced services to all of its customers. An isolated residential customer sitting on top of a mountain should not expect to have the same range of communications services available to them that a customer residing in a high density area would have. The consideration in each case should be the cost of providing service and how much of that cost has to be picked up by other customers.

60. *Should low-income consumers and those in rural, insular, and high cost areas, have access to telecommunications and information services, including inter-exchange services and advanced telecommunications and information services, that are*

reasonably comparable to those services provided in urban areas and that are available at rates that are reasonably comparable to rates charged for similar services in urban areas?

Yes, this is the policy statement found in Section 254 and it applies as much today as it did in 1996 when the statement was formulated. The key word in this statement for both price and service availability are “reasonably comparable.” What is “reasonably comparable” needs to be determined at the implementation stage.

61. *Should support be provided in an area with an unsubsidized competitor?*

Yes, the fact that an unsubsidized competitor has entered the market should not impact whether or not the company serving the entire market should receive support. For wireline companies in particular, the cost of providing service goes up directly with density and distance from the serving location. If a competitor is operating in the higher density areas of the serving area, they can provide service without incurring the much higher cost of serving the entire area.

Future Level of Support

62. *Should support be based on the least cost provider of service in a given geographic area?*

No, assuming a fund like the one that exists today, support should not be based on the least cost provider of service in a given geographic area. It would be ideal, as a general principle, to have service support based on the least cost provider of service, but it is highly unlikely that such a comparison could be made, except on a modeled basis. To make a reasonable comparison of cost, the two providers would have to have working infrastructure capable of reaching all of the same customers.

63. *What should be the basis for a benchmark for affordable rates for voice grade service? For broadband service?*

Assuming a fund like the one that exists today would exist in the future, the benchmark for affordable rates should have the following four features: 1) it should vary by average income in a specific geographic area, 2) it should vary over time with the general price index, 3) the base rate should be based on a statewide average, and 4) the rate should not be set so that the resulting prices for service are a barrier to entry for competitors.

64. *Should the level of support be the difference between the cost of providing service in the area and a benchmark rate?*

This is an implementation issue that will need to be addressed once the nature of future OUSF is determined. If one assumes a fund like the one that exists today exists in the future, the level of support calculated as the difference between the cost of providing service in an area and a benchmark rate could no longer be calculated. For the two largest companies the cost per wire center was calculated using a model and that model is no longer close to being current nor capable of addressing broadband services.

65. *Should the level of support for expanding a network into an unserved area be the lowest bid? If so, how should the lowest bid be examined for reasonability if it is the only bid in the area?*

This is an implementation issue that will need to be addressed once the nature of future OUSF is determined. In general, as with most bidding processes, there are more factors that need to be addressed than just price alone.

Future Funding

66. *Should all communications service providers operating in Oregon contribute to the fund, including wireless and VoIP providers?*

Communications service providers do not presently contribute to the fund nor would they contribute in future. The current funding for the OUSF comes from the telecommunications service customers and it should be that way in the future.

Wireless customers and customers using receiving communications service from VoIP or any other type of provider should all contribute to the fund. Regardless of the type of technology being used, these are communications customers and should be contributing to ensure the ubiquitous availability of these services.

67. *Should the basis for contributing to the fund be revenues, telephone numbers (or their equivalent), or some other basis?*

This is an implementation issue and should be addressed at that time. What we know from experience is that using revenues as a basis for collecting funds is fairly complex. In the current system, revenues on which the fee is collected are identified at a fairly detailed level with a lot of subtle distinctions being made by product and classification of the product as wholesale, retail, interstate or intrastate.

68. *If categories of companies are ineligible for support, should they or their customers be required to pay into the fund?*

The intent of the fund is to provide affordable and reasonably comparable communications service, where feasible, for everyone in the state of Oregon. The fees are paid by consumers of telecommunications services in the state of Oregon and not by the companies serving them. Since it is the consumers of telecommunications services in the state that are paying the fee, it is inconsequential whether or not the company providing their service is eligible for support.

69. *Should contributions be collected based on revenues, lines, or the equivalent of telephone numbers?*

See response to Question 67.

70. *How should the amount of support be determined?*

This is an implementation issue and needs to be determined once the nature of the fund is established.

71. *If the fund supports broadband or its deployment, should all broadband providers be assessed?*

The only contributors to the fund, present and future, are residents of the state of Oregon. The issue is whether a provider should be required to collect the fee from their consumers of communications service in the state and not whether a provider should have to pay into the fund.

Transitioning of the Fund

72. *Should companies that have made investments under the assumption that the current structure would continue to exist in the future be compensated from the fund? If yes, how should this be done?*

Yes, these companies should be compensated. The primary purpose of the fund is to ensure that Oregon customers have reasonably comparable services at affordable rates. This is accomplished by having recipient companies make long term investments in the network. Since payments are made on a monthly basis, the company has to make the assumption that the payments will exist until sometime in the future. One assumption that is likely to have been made by a company is that the revenue stream is going to exist in the future. To the extent that a company made investments in the network based on this assumption, they

should be compensated. The determination of whether a company is entitled to transition payments must be determined during the implementation stage.

73. *If there is a need for an intrastate mechanism for funding broadband, should it be separate and apart from any OUSF fund?*

No, like proposed earlier, there should only be one OUSF made up of different funds with different objectives. If it is decided that broadband should be supported, the fund should be one of the OUSF funds. Aside from simplifying the administration of the fund, it would allow fund allocations to be rapidly changed as the cost and benefits associated with each fund evolve.

74. *If broadband is to be funded using the OUSF, what steps should be taken to transition from the present fund to a broadband fund and over what timeframe?*

These are implementation questions, but at a general level the first step in transitioning from the current OUSF is to create separate funds under the OUSF umbrella. This would allow money to smoothly flow from one fund to another without requiring a statute or rule changes to do so.

Tribal Lands

75. *Should the Tribal Sovereign Nations located within Oregon have the right to determine which telecommunications providers serve their Reservations?*

In principle, the Tribal Sovereign Nations should have the right to determine which telecommunication providers serve their reservation; however, where there is a company presently serving the reservation, the assets of the company remain the property of the company and should only be used by entering into an agreement with the new company.

76. *If a provider receiving OUSF is not providing adequate service, should a Tribal Council be able to work with the PUC to compel the company to provide better service or decertify the company as to the OUSF funding?*

This is an implementation item since it would require a working definition of adequate service, a time frame for remedying the problem, and a procedure for addressing the issue.

In principle, however, if a company is not providing adequate service in an area where it is receiving support, it should be subject to having the support for that area taken away from it. In most cases it should not lead to the company losing its certificate.

77. *Assuming Tribes have the sovereign right to provide telecommunications services on their Reservation, when a tribe asserts that right, should the Tribe be eligible for OUSF funding?*

This is an implementation item since there are a number of items that need to be investigated. In principle, however, if the telephone company owned by the tribe has met all of the legal requirements to receive funds from the OUSF, then they should be allowed to receive payments from the fund.

78. *If an incumbent provider on tribal lands is currently receiving ETC support, should the Tribally-owned provider also be eligible for ETC status and related OUSF funding?*

This is an implementation item since there are a number of items that need to be investigated. In principle, however, if the telephone company owned by the tribe has met all of the legal requirements (among which is ETC status) to receive funds from the OUSF, then they should be allowed to receive payments from the fund.

This concludes Staff's Comments.

Dated at Salem, Oregon, this 25th day of October 2010.



Roger White
Program Manager
Cost Analysis

CERTIFICATE OF SERVICE

**UM 1481
Opening Comments**

I certify that I have this day served the foregoing document upon all parties of record in this proceeding by delivering a copy in person or by mailing a copy properly addressed with first class postage prepaid, or by electronic mail pursuant to OAR 860-13-0070, to the following parties or attorneys of parties.

Dated at Salem, Oregon, this 25th day of October, 2010.

Kay Barnes

Kay Barnes
Public Utility Commission
Regulatory Operations
550 Capitol St NE Ste 215
Salem, Oregon 97301-2551
Telephone: (503) 378-5763

UM 1481
Service List (Parties)

CHARLES L BEST (W) ATTORNEY AT LAW	1631 NE BROADWAY #538 PORTLAND OR 97232-1425 chuck@charleslbest.com
AT&T CYNTHIA MANHEIM (W)	PO BOX 97061 REDMOND WA 98052 cindy.manheim@att.com
AT&T COMMUNICATIONS OF THE PACIFIC NORTHWEST INC DAVID COLLIER(W)	645 E PLUMB LN PO BOX 11010 RENO NV 89502 david.collier@att.com
AT&T SERVICES, INC. SHARON L MULLIN (W) DIRECTOR--EXTERNAL AFFAIRS	400 W 15TH ST, STE 930 AUSTIN TX 78701 smullin@att.com
ATER WYNNE LLP ARTHUR A BUTLER (W)	601 UNION STREET, STE 1501 SEATTLE WA 98101-3981 aab@aterwynne.com
ROGER T DUNAWAY	601 UNION STREET, STE 1501 SEATTLE WA 98101-3981 'rtd@aterwynne.com'
CENTURYLINK, INC. WILLIAM E HENDRICKS (W) ATTORNEY	805 BROADWAY ST VANCOUVER WA 98660-3277 tre.hendricks@centurylink.com
CITIZENS' UTILITY BOARD OF OREGON GORDON FEIGNER (W) ENERGY ANALYST	610 SW BROADWAY, STE 400 PORTLAND OR 97205 gordon@oregoncub.org
ROBERT JENKS EXECUTIVE DIRECTOR	610 SW BROADWAY, STE 400 PORTLAND OR 97205 bob@oregoncub.org
G. CATRIONA MCCrackEN LEGAL COUNSEL/STAFF ATTY	610 SW BROADWAY, STE 400 PORTLAND OR 97205 catriona@oregoncub.org
RAYMOND MYERS ATTORNEY	610 SW BROADWAY, STE 400 PORTLAND OR 97205 ray@oregoncub.org

<p>KEVIN ELLIOTT PARKS STAFF ATTORNEY</p>	<p>610 SW BROADWAY, STE 400 PORTLAND OR 97205 kevin@oregoncub.org</p>
<p>COMCAST BUSINESS COMMUNICATIONS LLC</p> <p>DOUG COOLEY GOVERNMENT AFFAIRS MANAGER</p>	<p>1710 SALEM INDUSTRIAL DRIVE NE SALEM OR 97303 doug_cooley@cable.comcast.com</p>
<p>CONVERGE COMMUNICATIONS</p> <p>MARSHA SPELLMAN</p>	<p>10425 SW HAWTHORNE LN PORTLAND OR 97225 marsha@convergecomm.com</p>
<p>DAVIS WRIGHT TREMAINE LLP</p> <p>MARK P TRINCHERO</p>	<p>1300 SW FIFTH AVE STE 2300 PORTLAND OR 97201-5682 marktrinchero@dwt.com</p>
<p>DEPARTMENT OF JUSTICE</p> <p>MICHAEL T WEIRICH ASSISTANT ATTORNEY GENERAL</p>	<p>BUSINESS ACTIVITIES SECTION 1162 COURT ST NE SALEM OR 97301-4096 michael.weirich@doj.state.or.us</p>
<p>EMBARQ COMMUNICATIONS INC</p> <p>BARBARA YOUNG (W) STATE EXECUTIVE - OR & WA</p>	<p>902 WASCO ST - ORHDRA0305 HOOD RIVER OR 97031-3105 barbara.c.young@centurylink.com</p>
<p>FRONTIER COMMUNICATIONS NORTHWEST INC</p> <p>RENEE WILLER EXTERNAL AFFAIRS MANAGER</p>	<p>20575 NW VON NEUMANN DR BEAVERTON OR 97006-6982 renee.willer@ftr.com</p>
<p>FRONTIER COMMUNICATIONS OF AMERICA</p> <p>JACK PHILLIPS (W)</p>	<p>14450 BURNHAVEN DR BURNSVILLE MN 55306 jack.phillips@frontiercorp.com</p>
<p>FRONTIER COMMUNICATIONS OF AMERICA INC</p> <p>INGO HENNINGSEN (W) MANAGER, GOVERNMENT & EXTERNAL AFFAIRS</p>	<p>4064 LISA DR SALT LAKE CITY UT 84124-2118 ingo.henningsen@frontiercorp.com</p>
<p>GVNW CONSULTING INC</p> <p>JEFFRY H SMITH VICE PRESIDENT & DIVISION MANAGER</p>	<p>8050 SW WARM SPRINGS - STE 200 TUALATIN OR 97062 jsmith@gvnw.com</p>

GVNW INC CARSTEN KOLDSBAEK CONSULTING MANAGER	8050 SW WARM SPRINGS RD TUALATIN OR 97062 ckoldsbaek@gvnw.com
INTEGRA TELECOM OF OREGON INC DOUGLAS K DENNEY (W)	6160 GOLDEN HILLS DR GOLDEN VALLEY MN 55416-1020 dkdenney@integratelecom.com
INTEGRA TELECOM, INC. THEODORE N GILLIAM (W) SENIOR CORPORATE COUNSEL	1201 NE LLOYD BLVD STE 500 PORTLAND OR 97232 tgilliam@integratelecom.com
LAW OFFICE OF RICHARD A FINNIGAN RICHARD A FINNIGAN ATTORNEY AT LAW	2112 BLACK LAKE BLVD SW OLYMPIA WA 98512 rickfinn@localaccess.com
OREGON CABLE AND TELECOMMUNICATIONS ASSOCIATION MICHAEL DEWEY EXECUTIVE DIRECTOR	1249 COMMERCIAL ST SE SALEM OR 97302 mdewey@oregoncable.com
OREGON EXCHANGE CARRIER ASSN CRAIG PHILLIPS	800 C ST VANCOUVER WA 98660 cphillips@oeca.com
OREGON TELECOMMUNICATIONS ASSN BRANT WOLF EXECUTIVE VICE PRESIDENT	777 13TH ST SE - STE 120 SALEM OR 97301-4038 bwolf@ota-telecom.org
PUBLIC UTILITY COMMISSION OF OREGON ROGER WHITE PROGRAM MANAGER	PO BOX 2148 SALEM OR 97308 roger.white@state.or.us
QWEST CORPORATION MARK REYNOLDS	1600 7TH AVE RM 3206 SEATTLE WA 98191 mark.reynolds3@qwest.com
ADAM L SHERR	1600 7TH AVE RM 1506 SEATTLE WA 98191 adam.sherr@qwest.com

VERIZON MILT H DOUMIT DIRECTOR--STATE GOVT. RELATIONS	410 -- 11TH AVE. SE, SUITE 103 OLYMPIA WA 98501 milt.h.doumit@verizon.com
VERIZON CORPORATE SERVICES THOMAS F DIXON ASST GENERAL COUNSEL	707 17TH ST #4200 DENVER CO 80202 thomas.f.dixon@verizon.com
WSTC ADAM HAAS	10425 SW HAWTHORNE LN PORTLAND OR 97225 adamhaas@convergecomm.com