

**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 THE
OREGON TELECOMMUNICATIONS ASSOCIATION**

October 25, 2010

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I. INTRODUCTION

The Oregon Telecommunications Association (OTA) is delighted to provide its Opening Comments in this very important docket. The Commission has opened this docket to undertake a comprehensive review of the existing state universal service fund. Indeed, the Issues List in this docket is nine pages long and identifies 78 separate issues. However, despite the length of the Issues List and the number of specific issues identified on the Issues List, this docket boils down to two critical questions.

The first question is whether there is a continuing need for an Oregon universal service fund (OUSF). The second question is if there is a need, should the existing state universal service fund mechanism be modified for future use? These two issues are at the heart of this docket.

OTA will address these two critical linchpins in the initial portion of these Opening Comments. After doing so, OTA will turn to the specific issues identified on the Issues List.

In these Opening Comments, OTA will demonstrate that there is a continuing need for the OUSF. Further, OTA will point out that in the face of access reform and other changes that are on the horizon, there should be changes to the OUSF mechanism. Not the least of these is a need to set the stage for the conversion of the existing public switched telecommunications network (PSTN) to the public broadband network (PBN). Telecommunications is evolving from its existing methods of delivery of communications to increasingly using broadband-based methods of delivery. The OUSF must be equipped with the tools to deal with this evolution.

II. THERE IS A CONTINUING NEED FOR THE OREGON UNIVERSAL SERVICE FUND

The existing OUSF was initiated by legislation enacted in 1999 and is codified as ORS 759.425. The authorizing legislation was implemented in two stages. The first stage dealt with larger companies, specifically Qwest and Verizon. The second phase of implementation dealt with the rural incumbent local exchange carriers (ILECs). For OTA's members, the existing OUSF has worked as proposed: it has allowed intrastate switched access charges to be at a lower level than would be the case if the OUSF did not exist. As a result, the OUSF provides explicit support for the networks that operate as the PSTN in rural Oregon. The retention of the OUSF is an absolute must in order that modern telecommunications services be provided in rural Oregon and that rural Oregon have an opportunity for continued economic development.

The key to this discussion is to focus on the network and what it brings to rural Oregon. As noted above, the network today is largely referred to as the PSTN. It is evolving and will become a largely broadband network, the PBN, in the future.

The PSTN in rural Oregon is the key for telecommunications, economic development and the availability of broadband services in rural Oregon. Obviously, wired communications depend upon the PSTN. What many people overlook, however, is that the PSTN is critical for wireless communications as well. In a recent report, the United States Government Accountability Office pointed out that "*... the majority of wireless traffic actually flows over the wireline telephone system, with only the last segment - traveling to and from mobile phones to towers - operating wirelessly.*"¹ It is also the PSTN that allows for the provision of broadband services to residents and businesses in rural Oregon. Even IP-based providers rely on the PSTN to reach rural Oregon customers. Thus, the existing network is used not just for wireline

¹ GA-10-779 at p. 4 (Rel. July, 2010).

telecommunications, but also serves as the basis for wireless communication, IP telephony and broadband activities in rural Oregon. The network is a key piece of the economic vitality of the State of Oregon.

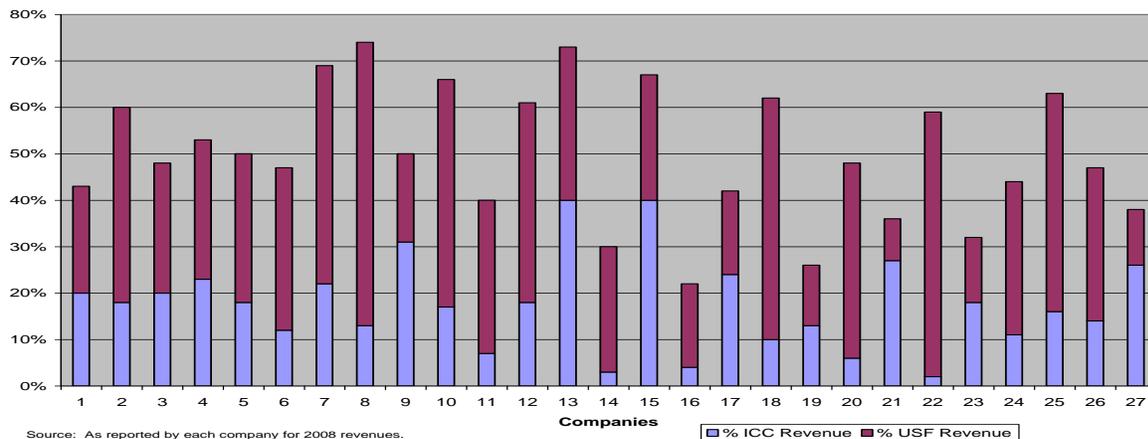
For reasons that will be discussed shortly, the PSTN is not self-supporting in rural Oregon. The cost to build, operate and maintain the PSTN in rural Oregon exceeds what rural customers can reasonably be expected to pay. The OUSF is a necessity.

A. Rural ILECs Rely on Inter-carrier Compensation and Universal Service Support as Key Components in Supporting the PSTN.

One of the key elements to consider in discussing the issue of whether there is a continuing need for the OUSF is to look at where support is provided for the existing network today. As Table 1 demonstrates, Oregon's rural ILECs receive, on average, fifty percent of their regulated telecommunications revenue from inter-carrier compensation, which is largely access charge revenue, and existing universal service funds.

Table 1

OTA Member Companies
 Percent Total Regulated Telecommunication Revenue From ICC/USF²
 (Company Average - 50%)



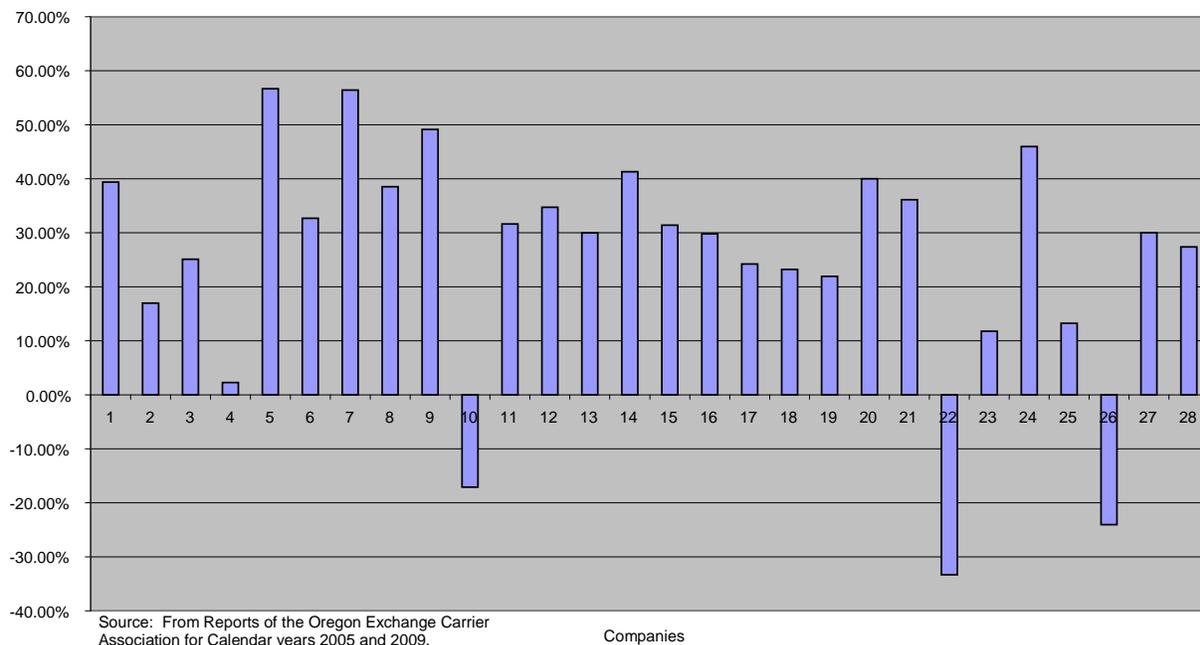
² The figures on Table 1 include support from the existing OUSF in the USF revenue figure.

For some companies in Oregon, the combined support received from intercarrier compensation and universal service (federal and state) exceeds sixty percent. This is the case for nine of the Oregon rural ILECs. For four companies, the percentage of revenue figure is close to or exceeds seventy percent of the total regulated revenue.

Oregon rural ILECs are facing considerable challenges in maintaining intercarrier compensation sources of support for the PSTN. The largest source for intercarrier compensation for Oregon rural ILECs is switched access charges. This is a per minute based compensation system. In Oregon, access minutes have been declining at a rapid rate. Table 2 demonstrates the trend in access minutes in Oregon.

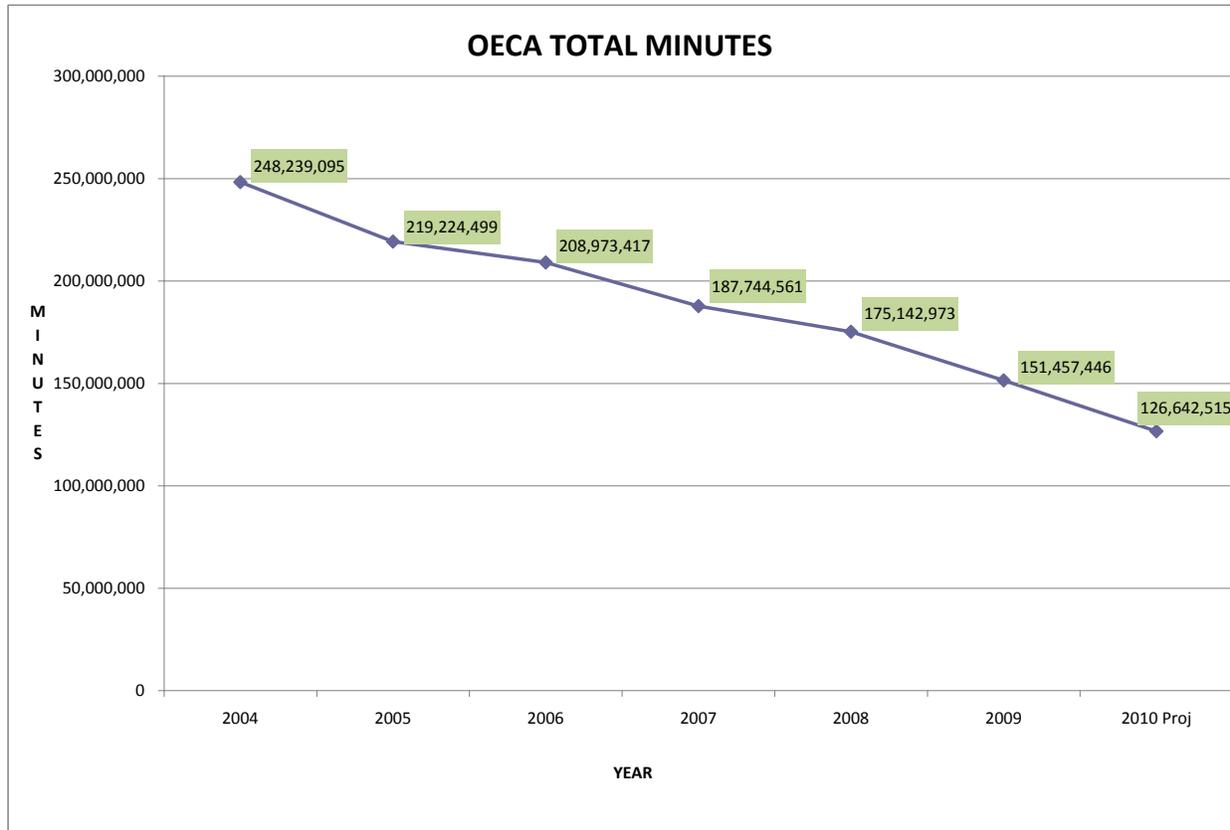
Table 2

OECA Member Company
 Percentage Access Minute Loss-Total
 2005-2009
 Average Loss (All Companies): 27.72%



Another way to look at the access minute loss is to look at the loss to the Oregon Exchange Carrier Association (OECA) pool as a whole. The chart set forth below as Table 3 shows the decline in access minutes for the OECA pool. This table evidences a very steep decline in access minutes.

Table 3³



At the same time, the number of loops in service have also continued to decline. Table 4 sets out a chart showing the difference in loops between 2005 and 2010. Please note that these are working loops which include company official lines. Thus, the numbers in the chart are slightly larger than the number of access lines actually served.

³ Source: 2009 OECA Annual Report released September, 2010. Used with permission of OECA.

Table 4

Oregon ILEC Loop Loss
(2005-2010)

Company	2005 Working Loops*	2010 Working Loops*	Number Lost	% Loss
Asotin	143	137	6	4.20%
Beaver Creek	4,602	4,214	388	8.43%
Canby	11,380	10,090	1,290	11.34%
Cascade	9,644	8,346	1,298	13.46%
CenturyLink	74,705	59,528	15,177	20.32%
Clear Creek	3,806	3,313	493	12.95%
Colton	1,266	1,084	182	14.38%
Eagle	479	465	14	2.92%
Gervais	1,175	908	267	22.72%
Helix	337	284	53	15.73%
Home	872	750	122	13.99%
Midvale	253	244	9	3.56%
Molalla	6,631	5,745	886	13.36%
Monitor	756	638	118	15.61%
Monroe	1,038	919	119	11.46%
Mt. Angel	2,037	1,813	224	11.00%
Nehalem	3,369	2,966	403	11.96%
North-State	552	486	66	11.96%
Oregon-Idaho	735	676	59	8.03%
Oregon Tel	1,863	1,685	178	9.55%
People's	1,524	1,232	292	19.16%
Pine	981	987	-6	-0.61%
Pioneer	15,910	13,864	2,046	12.86%
Roome	692	644	48	6.94%
St. Paul	653	605	48	7.35%
Scio	1,901	1,674	227	11.94%
Stayton	7,921	6,454	1,467	18.52%
Trans-Cascades	229	200	29	12.66%
United (CenturyLink)	71,723	56,785	14,938	20.83%
Verizon	444,636	317,402	127,234	28.62%
Malheur	13,151	10,979	2,172	16.52%
Citizens	14,599	12,410	2,189	14.99%
Qwest	1,304,393	891,427	412,966	31.66%
TOTAL	2,003,956	1,418,954	585,002	29.19%

*Source: USAC Report HC05 for 1st Quarter 2005 and 1st Quarter 2010.

On top of this, it is generally recognized that there is a drive to lower intrastate switched access rates. The Federal Communications Commission (FCC) has set two access reduction goals as part of the National Broadband Plan. The first of these goals is to reduce intrastate access rates to interstate levels over two to four years.⁴ The second is to eliminate access charges altogether over a period of time.⁵ This comes under the rubric of "access reform." Without an OUSF, access reform is nothing more than a reduction in revenue to rural ILECs.

B. Access Reduction Cannot be Made Up by Increasing Local Rates.

Rural ILECs are losing access minutes and loops. That is not questioned. However, some parties will argue that the next steps in access reductions should be made up in local rates. That is not possible if local rates in rural areas are to remain reasonably comparable to local rates in urban areas as required by 47 U.S.C. 254 (b)(5).

On Tables 5 and 6, the rate effect of moving intrastate switched access rates to lower levels is set out. As demonstrated on Table 5, moving OTA members' intrastate switched access rates to the composite interstate switched access per minute of use rate level produces potential local rates of up to \$70 per month if there is no additional support mechanism. Four companies would have monthly local rates in excess of \$50. Every OTA company would have local service rates exceeding \$30 per month.⁶ These rates exceed what would be "reasonably comparable" rates for basic local service.

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⁴ National Broadband Plan at p. 148.

⁵ National Broadband Plan at p. 148 and 150.

⁶ A partial exception is Helix, which in a portion of its service area would have rates of \$28.29 per month, but would exceed \$30 per month in the remainder of its service area.

Table 5

OTA ILEC MEMBERS

EFFECT OF TRANSITION OF INTRASTATE SWITCHED ACCESS RATES
TO COMPOSITE INTERSTATE SWITCHED RATE LEVEL

Company	Current Rate*	Post Transition Rate
Asotin	\$18.75	\$32.52
Beaver Creek	\$30.50	\$33.04
Canby	\$30.58	\$33.43
Cascade	\$33.89/\$30.24	\$37.81/\$34.16
Clear Creek	\$32.87	\$35.47
ColtonTel	\$44.35	\$50.08
Eagle	\$18.10	\$37.77
Gervais	\$34.45	\$40.78
Helix	\$22.17-\$26.17	\$28.29-\$32.29
Home	\$23.05	\$35.92
Molalla	\$34.45	\$36.00
Monitor	\$23.15	\$57.84
Monroe	\$30.08	\$38.93
Mt. Angel	\$24.50	\$35.08
Nehalem	\$19.50	\$34.69
North-State	\$33.30	\$52.66
OR-Idaho	\$18.15-\$26.55	\$37.96-\$46.26
Oregon Tel	\$29.00	\$63.24
People's	\$29.40	\$41.85
Pine	\$16.50	\$70.55
Pioneer	\$22.95	\$30.62
Roome	\$33.50/\$36.50	\$42.26/\$45.26
St. Paul	\$27.35	\$37.56
Scio	\$29.65-\$31.00	\$42.72-\$44.07
Stayton	\$24.99	\$32.00
Trans-Cascades	\$28.62	\$38.72

*Taken from company tariffs and pricing schedules for residential rates including EAS and existing \$6.50 subscriber line charge (SLC).

In Table 6, the effect of moving to a "0" switched access rate is portrayed. As can be quickly seen, the level of local service rates become very, very high, exceeding \$100 per month in some areas and \$200 per month for one company. This completely discredits the arguments made by some that intercarrier compensation reform can be accomplished simply by increasing

local rates or Subscriber Line Charges (SLCs).⁷ It also demonstrates that intercarrier compensation reform cannot occur in a vacuum. The resulting rates would violate the standards of Section 254.⁸

Table 6
OTA ILEC MEMBERS
EFFECT OF TRANSITION OF SWITCHED
ACCESS RATES TO "0" RATE

Company	Existing Local Rate* (w/EAS)	Rate After Transition
Asotin	\$18.75	\$61.90
Beaver Creek	\$30.50	\$43.51
Canby	\$30.58	\$47.00
Cascade	\$33.89/\$30.24	\$70.36/\$66.71
Clear Creek	\$32.87	\$49.08
ColtonTel	\$44.35	\$96.14
Eagle	\$18.10	\$63.74
Gervais	\$34.45	\$78.08
Helix	\$22.17-\$26.17	\$229.04-\$233.04
Home	\$23.05	\$60.05
Molalla	\$34.45	\$47.70
Monitor	\$23.15	\$104.97
Monroe	\$30.08	\$45.58
Mt. Angel	\$24.50	\$53.52
Nehalem	\$19.50	\$36.94
North-State	\$33.30	\$114.07
OR-Idaho	\$18.15-\$26.55	\$68.80-\$77.20
Oregon Tel	\$29.00	\$92.24
People's	\$29.40	\$120.02
Pine	\$16.50	\$102.01
Pioneer	\$22.95	\$51.86
Roome	\$33.50/\$36.50	\$108.39/\$111.39
St. Paul	\$27.35	\$79.03
Scio	\$29.65-\$31.00	\$52.85-\$54.20
Stayton	\$24.99	\$70.60
Trans-Cascades	\$28.62	\$58.84

*Residential Rate including EAS and existing SLC at \$6.50 per month

⁷ SLCs are nothing more than a portion of the local rate paid by customers. SLCs were created by the FCC as a partial transition of access rates to local rates.

⁸ For ease of reference, Section 254 of the Communications Act of 1934, as amended by the Telecommunications Act of 1996, or 47 U.S.C. § 254 will be referred to as Section 254.

Without an OUSF, access reform is impossible. Please keep in mind that these numbers focus only on intercarrier compensation. The tables assume that the existing level of support from current state and federal universal service mechanisms remains in place. The local rates would be much higher if these universal service mechanisms are removed and are not replaced with an equivalent level of support.

C. The Role of Density in Serving Rural Areas.

A key consideration in understanding why it is important to support the rural PSTN and why there is the need for federal and state universal service funds is the relative density of service areas. The relatively low density of the areas served by most OTA members makes it very expensive to build, operate and maintain the PSTN.⁹ The relative density of the areas served by OTA's members are set out on Table 7.

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⁹ This does not even begin to take into account issues related to geography, which also present significant challenges to many OTA members.

Table 7

OTA MEMBERS
DENSITY ANALYSIS

Company	Square Miles Served*	2010 Working Loops**	Density (loops/sq. mi.)
Asotin	116	137	1.18
Beaver Creek	64	4,214	65.84
Canby	84	10,090	120.12
Cascade	1,762	8,346	4.74
CenturyLink	29,965	106,313	3.55
Clear Creek	52	3,313	63.71
ColtonTel	62	1,084	17.48
Eagle	250	465	1.86
Gervais	32	908	28.38
Helix	180	284	1.58
Home	730	750	1.03
Molalla	290	5,745	19.81
Monitor	43	638	14.84
Monroe	50	919	18.38
Mt. Angel	17	1,813	106.65
Nehalem	374	2,966	7.93
North-State	323	486	1.50
OR-Idaho	4,486	676	0.15
Oregon Tel	1,278	1,685	1.32
People's	60	1,232	20.53
Pine	620	987	1.59
Pioneer	1,330	13,864	10.42
Roome	65	644	9.91
St. Paul	34	605	17.79
Scio	100	1,674	16.74
Stayton	106	6,454	60.89
Trans-Cascades	893	200	0.22

*As reported by the company.

**From USAC Report HC05, 2nd Quarter 2010. Working loops include company official lines and are higher than actual access lines served.

For the most part, these service areas are very low density. What this data demonstrates is that it can be expected that the cost to serve each customer in rural areas is much higher than the average cost to serve customers in more densely-populated urban areas.

OTA's members tend to serve areas in counties which are lower density than the remainder of the county (or at least the county average). Some specific examples may help. One example is Lane County in Oregon. Lane County includes the relatively densely populated city of Eugene. Eugene city limits take in 40 square miles and there is a population of 146,356 within the city, for a density of 3,403 persons per square mile.¹⁰ The density of Eugene drives the average for Lane County to 70.9 persons per square mile.¹¹ In comparison, the rural ILEC Pioneer Telephone Cooperative serves four exchanges in the county. As set out on Table 2, Pioneer's average density is 10.42 working loops per square mile. These four Pioneer exchanges in Lane County are less dense than Pioneer's average.

Another example is Benton County which contains the City of Corvallis. Corvallis covers 13 square miles with a population of 49,807.¹² This produces a density of 3,627 persons per square mile. Benton County as a whole has an average of 35.6 persons per square mile.¹³ In that same county, Monroe Telephone Company operates a service area with a density of 18.83 working loops per square mile. Pioneer Telephone Cooperative serves much of the outlying rural portions of the county with an average density of 10.42 working loops per square mile.

In the table below, each county that one of the rural ILECs in Oregon serves in is set out with the county's density taken from census data. That density figure is then compared to the

¹⁰ Source is Census Bureau at <http://quickfacts.census.gov/qfd/states/41000.html>.

¹¹ Ibid.

¹² Ibid.

¹³ Ibid.

actual density in the rural ILEC's specific serving area.¹⁴ What the table demonstrates is that the rural ILEC's service area is usually much less dense than the county as a whole. For example, North-State's service area is in Wasco County, Oregon. Wasco County has an average density of ten people per square mile. On the other hand, North-State's service area has only 1.5 working loops per square mile. This is important because density drives per customer cost of service. The lower the density, the higher the cost.

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¹⁴ CenturyLink is not included in these tables since it serves in almost every county in each state.

Table 8

OREGON STATE
COUNTY DENSITY COMPARISON

Company	Density (loops/sq. mi.)*	County	Population/ Sq. Mi.**
Asotin	1.18	Wallowa	2.3
Beaver Creek	65.84	Clackamas	181.2
Canby	120.12	Clackamas	181.2
Cascade***	4.74	Clackamas	181.2
Clear Creek	63.71	Clackamas	181.2
ColtonTel	17.48	Clackamas	181.2
Eagle	1.86	Baker	5.5
Gervais	28.38	Marion	240.6
Helix	1.58	Umatilla	21.9
Home	1.03	Gilliam	1.6
Molalla	19.81	Clackamas	181.2
Monitor	14.84	Marion	240.6
Monroe	18.38	Benton	35.6
Mt. Angel	106.65	Marion	240.6
Nehalem	7.42	Tillamook	22.0
North-State	1.50	Wasco	10.0
OR-Idaho	0.15	Malheur	3.2
Oregon Tel***	1.32	Baker	5.5
People's***	20.53	Linn	45.0
Pine	1.59	Baker	5.5
Pioneer	10.42	Benton/Lane	35.6/70.9
Roome	9.91	Linn	45.0
St. Paul	17.79	Marion	240.6
Scio	16.74	Linn	45.0
Stayton***	60.89	Marion	240.6
Trans-Cascades	0.22	Wasco/Jefferson	10.0/10.7

*Taken from Table 2, above.

**Census Bureau Quick Facts at <http://quickfacts.census.gov/qfd/status/41000.html>

***Cascade also serves exchanges in Baker and Douglas Counties. The exchange in Clackamas County is its largest exchange. Oregon Tel also serves exchanges in Grant and Malheur Counties. Stayton also serves territory in Linn County. Stayton's primary service area (the City of Stayton) is in Marion County. People's service area includes a portion of Marion County.

While this comparison is between working loops and population, the comparison provides a good sense of the difference in density. Of course, other factors play a role. For example, if a rural ILEC has a business center with several businesses that each have more than

one line, that means that the actual service area of the rural ILEC is less dense than the reported average of working loops.¹⁵

Even if the county numbers are adjusted for the number of housing units rather than population, while the difference narrows, it still shows that the rural ILEC's density is less than county averages. For example, the number of housing units per square mile for Marion County in Oregon is 101.66.¹⁶ This shows a much greater density than Peoples' 20.53 working loops per square mile.

In addition, the areas served by the rural ILECs are often less advantageous in geological measurements. Many times the central communities were established in the most favorable geographical locations. The rural areas served by OTA's members tend to be more hilly, more rocky and, thus, more costly to serve. The point is that rural ILECs serve areas that are hard to serve and have low density. Support is needed for the PSTN to provide the communications of today and tomorrow.

D. The Importance of Density Issues Within an Exchange.

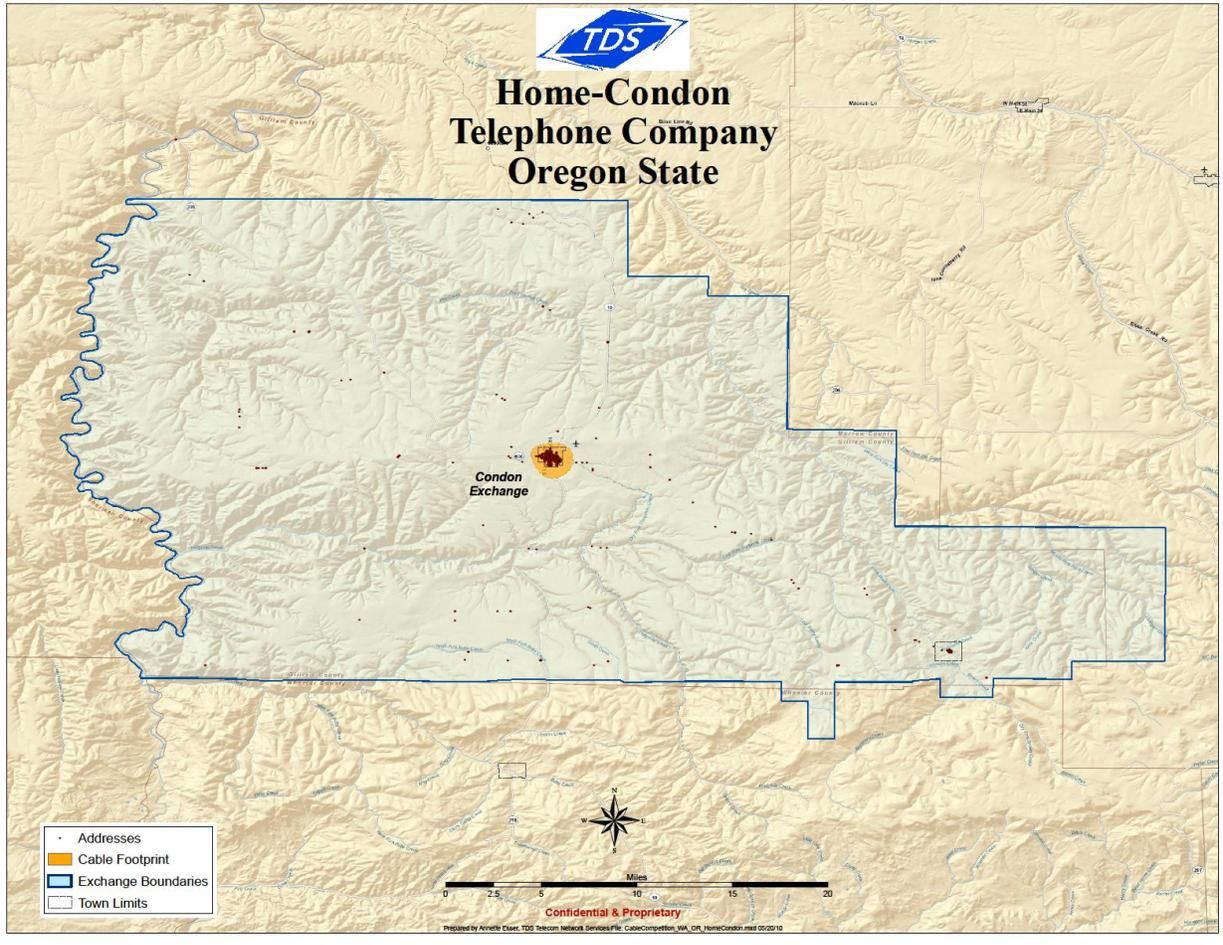
In addition to density, the concept of the "donut hole," although a somewhat trite analogy, serves to emphasize just how rural some of these areas are. Set out below is a map for TDS's Home operating company serving Condon, Oregon.¹⁷ The black dots on the map are customer locations. This map shows that even though the exchange is relatively sparsely populated to start with, once the more concentrated town portion is taken into consideration,

¹⁵ The use of working loops is a conservative approach since it includes official lines and, thus, is a larger number than access lines in service. Further, the USAC reports are on a lag basis and the loss of access lines is not fully reflected in those figures, which further overstates the ILEC's density figures.

¹⁶ Housing units per square mile is calculated from census data available at quickfacts.census.gov/qfd/states/41000. Please note this is 2000 census data and likely understates actual housing unit density today.

¹⁷ The map contains a legend that it is "Confidential & Proprietary." However, TDS has granted permission to use the map. It proved to not be possible to remove the legend.

providing service to areas outside the "donut hole" becomes very expensive because of the extremely sparse population.



Please note that this diagram also serves the purpose of demonstrating that even if there is wireline competition in the form of cable company entry, there is a need to provide support for the far-flung population in the exchange. The areas of cable service outlined on the map represent TDS' best estimate of existing cable company footprint. Obviously, cable serves only areas of relatively greater density. Even in town, the carrier of last resort (COLR) obligation continues to exist and that portion of the network must be maintained along with the rest of the service area. COLR is an obligation the cable company has avoided accepting. The challenges

of providing telecommunications and broadband to the widely dispersed population cannot be understated.

It is clearly more expensive to serve the less dense rural areas than it is the more densely-populated urban areas. When the next step is taken that shows the very dispersed, extremely low density areas served in most exchanges, a better understanding is gained of how much higher the costs are to provide ubiquitous service.

E. Summary.

To summarize this portion of the Opening Comments, there is a clear need for the existing OUSF. If there is to be further access reform, that access reform cannot be accomplished by increasing local rates in rural ILEC service areas or increasing SLCs. The existing OUSF could be used to take further access reform steps. However, in doing so, that might make the surcharge an unacceptable percentage of intrastate telecommunications revenue from those that contribute into the fund. It is clear that the contribution base for the OUSF needs to be expanded. The first step to broaden the contribution base is to eliminate the statutory exemption from contribution that now exists for wireless carriers.

The existing OUSF, with some modifications, is needed now and in the future to support the network that connects rural Oregon to urban Oregon for communications and broadband services.

III. THE EXISTING OUSF SHOULD BE MODIFIED

To accomplish meaningful access reform, the contribution base must be modified. In addition, not only in light of access reform, but to address other changes that are on the horizon, there should be changes to the OUSF mechanism. Not the least of these is a need to transition the existing PSTN to the PBN. Telecommunications is evolving in the methods of delivery of

communications to an increasingly broadband-based method of delivery. The OUSF needs to be equipped with tools to deal with that evolution.

Turning to the contribution base for the OUSF, one issue of significant concern is whether the contribution base is broad enough to accomplish what is needed. OTA believes that the contribution base is unduly restricted at the present time. The contribution base should be as broad as possible so that all carriers, of every type, including wireless and VoIP-based, that use the PSTN/PBN for the delivery of service should contribute to its support. It is the network in rural Oregon that will provide the base for modern communications services. It is the network in rural Oregon that provides a significant contribution towards enabling rural wireless services. It is the network in rural Oregon that allows most residents and businesses in those portions of the state to have access to broadband service. VoIP-based providers could not reach customers in rural Oregon without the PSTN/PBN in rural Oregon. The contribution base should be broadened.

If there is to be additional access reform in Oregon, it may be possible to do that with the existing mechanism. However, there are concerns, as noted above, that the existing contribution base may be a limiting factor. In addition, thought should be given to other aspects of the mechanism that might be worthy of modification.

One example would be to give the Commission authority to transition the existing fund to a fund that supports broadband over time. As the PSTN becomes the PBN, it seems logical that the supporting mechanism should change to reflect that changing environment.

IV. RESPONSES TO ISSUES ON THE CONSOLIDATED ISSUES LIST

In this section, OTA will provide its comments to the specific issues contained on the Consolidated Issues List.

CONSOLIDATED ISSUES LIST

Need For an OUSF:

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

Response: Yes. There is a definite need for the OUSF as the discussion above demonstrates.

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

Response: Yes. Please see the discussion above. However, it is important to understand that the formulation of this Issue contains within it a misunderstanding of the network. Two networks do not exist - one a narrowband network and a second as a broadband network. It is a single network. OUSF is important in today's environment to be sure that rates in rural areas are comparable to rates in urban areas for comparable services. This will be true in the future. It is the network that provides the services, whether they be voice or data services, that is the focus of the support. It is not a distinction between narrowband and broadband. It is a need to focus on the network that delivers the services.

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

Response: There is a need to support the network that provides access to broadband for rural Oregonians. It is the same network that today provides what is sometimes referred to as "narrow band telecommunications" service. As broadband speeds are increased, the existing network will need to be enhanced. What is very clear is that the rural communications network, as it exists today or in the future, cannot be built, operated and maintained solely from revenue from the customers that live in the rural areas that are served by that network.

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

Response: There is no need for a separate fund. The existing fund should be modified and transitioned over time to a broadband fund. There is no need for two funds. Again, it is an artificial distinction to think in terms of narrowband versus broadband. The focus for the policy discussion should be the support of the network that delivers the communications services that are needed in rural Oregon on an evolving basis. This is why OTA advocates modifications to the existing OUSF and providing the Commission with the tools to transition OUSF to a broadband fund over time. It is still the network that is at the heart of providing carrier of last resort (COLR) responsibilities and providing the necessary communications systems for a vital rural Oregon economy.

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?

Response: Yes. While some of the local service rates are too high, most rates are still reasonable. See, Table 5, above. OTA's position is that the OUSF should be used to establish local rates in rural areas to rates that are reasonably comparable to rates in urban areas for comparable services. In addition, what is clear from Table 5 is that additional access reductions cannot be absorbed by increasing local rates or adding SLCs.

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?

Response: No. As the record shows, the status quo is not acceptable. The FCC is tied up with what may be years of debate. Waiting for the FCC to act is dangerous for the continued

evolution, operation and maintenance of a viable and vital communications network serving rural Oregon.

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

Response: Since the issue is stated as limited to 2010, OTA is not advocating for a change in 2010 to the list of services supported as basic telephone service.

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

Response: The issue is not really about supporting lines. It is more complex than that. The issue is supporting the network that delivers communications services in rural Oregon. Use of lines as a measurement tool is important in determining, for example, if residential customers are paying a reasonably comparable rate in rural areas to what the customers are paying in urban areas. Lines are a useful tool in providing a shorthand calculation of the amount of support that is provided to any particular service area. However, it is the network that is supported and needs the support, rather than a particular line.

The debate over primary or other lines is not one that needs to take place. It is logically inconsistent to say that only primary lines should be supported and then expect economic development to have vitality in rural Oregon. If the primary line for a business is \$25.00 per month, but a second or third line is \$75.00 or \$80.00 per month, economic development will not occur. This whole debate about supporting all or some lines should be taken off the table.

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?

Response: This question assumes that there is a benchmark rate for basic telephone service that applies to all telecommunications providers. That assumption is incorrect. Under ORS 759.425(2)(a), the Commission may establish a price a telecommunications utility may charge its

customers for basic telephone service. However, under ORS 759.425(2)(b), this does not apply to small commercial companies and, by operation of law, does not apply to cooperatives.

Rather, there is a revenue benchmark in place that would apply to these companies that is used in the calculation of the draw from the OUSF, rather than a price benchmark for basic telephone service. With that clarification, OTA's position is that there is no need for the Commission to revisit the current benchmark.

The test under 47 U.S.C. § 254 is that rates in rural areas should be reasonably comparable to rates in urban areas for comparable services. This should be the test to judge what is a reasonable and affordable rate for basic telephone service, not a benchmark that might be used in the calculation of support. The rates for local service that are currently being charged by most ILECs in Oregon are set out in Tables 5 and 6, above. These rates include extended area service (EAS), which is an essential part of local service. The test for what is reasonable and affordable for basic telephone service, when all is said and done, is whether the rates paid by customers in rural Oregon are reasonably comparable to the rates paid by customers in urban portions of the State of Oregon for comparable services. In many cases, the rates that are set out in Tables 5 and 6 raise a question as to whether that test is being met today.

10. The 2003 order permitting small carriers to draw from the OUSF (Docket 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?

Response: Yes. As the Commission knows based upon the annual filings made by OECA, the offset to access charges has occurred. This offset from OUSF support has produced access rates that are lower than they would be without the existing OUSF.

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

Response: Yes. The Commission sees the OUSF effect when it analyses the OECA annual filing. Further, the Commission has available to it Form O and Form I filed by the ILECs. As a third measure, the Commission has the annual ETC filings by those that are designated as an ETC for federal support purposes. All of these items taken together give the Commission the tools to be assured that OUSF money currently provided to companies is spent for the intended purposes of the fund. There is no evidence in this record to the contrary.

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.

Response: OTA believes that there should be accountability in the OUSF. For any company that receives OUSF support, the same level of accountability should be provided. Currently, there are several tools that apply to most of OTA's members. First, there is an annual filing for companies participating in the OECA pool that Commission Staff reviews. Further, the Commission receives Form O and Form I from ILECs.¹⁸ In addition, the Commission receives and reviews in detail annual federal ETC recertification filings. This combination of tools allows the Commission Staff and the Commission to be sure that money received from the OUSF is spent in the way that it is intended to be spent. To the extent that some recipients of OUSF do not provide the same level of reporting, changes should be made so that all recipients provide that same level of reporting. If that is done, OTA believes the current tools that the Commission

¹⁸ Most ILECs file on an annual basis. As part of the merger proceedings, an agreement was reached to have Frontier Northwest file Form I on a triennial basis. In recent years, Verizon Northwest had not been filing Form I under a Forbearance Order issued by the FCC. See, In the Matter of Verizon Communications Inc. and Frontier Communications Corporation Joint Application for an Order Declining to Assert Jurisdiction Over, or, in the Alternative, Approving the Indirect Transfer of Control of Verizon Northwest, Inc., UM 1431, Order Nos. 10-067 (February 24, 2010) and 10-405 (October 18, 2010).

has available to it provide the needed accountability.

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

Response: Yes, the Commission sees an annual filing that demonstrates that the rural ILECs are in compliance with Docket UM 1071, Order No. 03-082.

Future Objectives of an OUSF:

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

Response: The public policy objective for the OUSF is to provide support for the communications network in rural Oregon that provides the basis for existing communications, future economic development and access to broadband services. In addition, the OUSF should help meet the public policy goal of ensuring that basic telephone service is available at reasonable and affordable rates.

Another key public policy objective is the maintenance of the obligations of COLR. This is an important concept and provides the basis for service to be provided to most Oregonians. The obligation to provide service to anyone who requests the service consistent with Commission's policy on line extensions and other matters forms an important role in ensuring a strong network providing communications services in rural Oregon.

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

Response: The OUSF advances the Commission's universal service goals by providing support in such a way that the network that serves rural Oregon can continue to be built, operated and maintained while keeping the rates paid by customers who live in those areas at reasonable levels.

16. How is progress toward OUSF goals measured?

Response: Progress toward OUSF goals can be measured in terms of the number of customers that have access to the network. Progress can be measured in the relative price paid for local services. There is an explicit standard under 47 U.S.C. § 254 that the prices be reasonably comparable in rural areas for comparable services to that paid by customers in urban areas. The progress towards OUSF goals can also be measured by the fact that the network in rural Oregon continues to be expanded, operated and maintained in a way that provides the needed communications services.

The issue of how to measure OUSF goals as the OUSF is transitioned to a broadband fund will need careful consideration. Concepts such as percentage of homes that have access at particular speeds will need careful and thorough discussion. However, there is no need to establish any particular measurement device for broadband service at the present time.

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)?

Response: No. This is a degree of complexity that would make the OUSF much more expensive to operate and is unnecessary. Multiple funds could lead to game playing among carriers as they jockey to draw from as many funds as possible. The use of multiple funds also ignores the fundamental nature of what is under discussion. Specifically, that there is a PSTN that constitutes the network providing service in rural Oregon. It is this network that provides interexchange carriers with access to customers in rural Oregon. It is this network that helps support wireless services in rural Oregon. It is this network that is largely responsible for the provision of broadband service in rural Oregon. It is this network that provides voice and data services in rural Oregon.

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?

Response: Yes. Access reform is essential to the continued provisioning and maintenance of the rural network. As discussed above, the facts in the record in this docket demonstrate that it is just not possible to raise local rates to accomplish access reforms and to meet the comparable service at a comparable rate standards. Access reform is an integral part of USF reform. The two should be viewed as hand-in-glove.

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?

Response: No. Vouchers are not an appropriate mechanism to use. The premise under Section 254¹⁹ is that rates for all customers in rural areas should be reasonably comparable to what customers in urban areas pay. There is no income test or means test included as any part of the principles set forth in Section 254. Nor is there any income or means test that has any part of the principles set out for the OUSF in ORS 759.425. There is no authority to use this sort of approach and, indeed, it would be in violation of federal and state statute to do so.

Further, this is an inefficient means of supporting the network that serves rural Oregon. It induces a level of cost and complexity that is not warranted.

Finally, the question itself admits that the rate levels would be set at a price that exceeds the comparable rate standard of Section 254. That price would be reduced for some individuals based on some sort of income test, but not for other individuals. Establishing rates that are not reasonably comparable is a clear violation of existing law.

¹⁹ Section 254 of the Communications Act of 1934 as amended by the Telecommunications Act of 1996. Codified as 47 U.S.C. § 254.

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?

Response: No. Simply funding grants or loans does not support the network. The network must be operated and maintained. Focusing on construction of new projects does not accomplish the ultimate policy goal of a functioning, ongoing network. There is no evidence that grants for construction of specific projects ultimately serves the purpose of provisioning universal service in unserved areas.

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?

Response: The answer here is the same as the response to Issue 19. Establishing rates at levels that exceed a reasonably comparable test would mean the state is in violation of Section 254. Reducing rates for some but not all, under vouchers simply underscores the basic premise that the rates themselves are not reasonably comparable. This would violate Section 254. This would also violate the directive in ORS 759.425 that basic telephone service be available at reasonable and affordable rates.

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

Response: This issue illustrates the lack of understanding that the rural network provides support for wireless services almost as much as it does for wireline services. In order for wireless service to occur in rural Oregon today, it is often the wireline network that must be used to back haul the traffic and allow it to be connected between wireless phones. This fact is supported by the Government Accountability Office report cited at Page 2 of these Opening Comments.

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?

Response: No. There is no need to try and replicate the American Recovery and Reinvestment Act. While construction projects might be thought of as a means of fighting a recession, it does not provide for the ongoing operation and maintenance of the networks that are critical for communications and economic development in rural Oregon.

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?

Response: OTA has discussed what it believes is the proper public policy objectives for the OUSF. It is not clear under this issue what is intended by "under-served areas" or what is intended by "parity." Therefore, additional comment is difficult to provide.

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

Response: Please see the discussion in Section II.D., above. OTA assumes this issue means unsubsidized wireline competition. It is possible that a certain threshold of unsubsidized wireline competition could be a threshold test to take a closer look at an area. However, as the map of the Condon exchange demonstrates, the complexity of how you then determine the amount of support that should continue to be provided for the extremely sparse areas outside the area of overlap is a complex question that has yet to be answered. Clearly, those areas outside of the relatively denser area of overlap need substantial support. Even where there is an overlap from unsubsidized wireline competition, the ILEC will continue to have COLR responsibilities. This means that the network that serves the relatively more dense area of the wire center or exchange must continue to be provided, operated and maintained in order to meet the COLR responsibilities. It is not as though the ILEC is relieved of service responsibilities and the costs attendant to those responsibilities.

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 unserved areas, providing on-going support for voice and broadband service in high cost areas).

Response: The purpose of the OUSF should be clearly established and sufficient revenues should be generated to meet the public policy objectives of the OUSF. What this means in terms of how to size the fund by being "directly tied to its objectives" appears to be a circular formulation. The goal is to keep the fund to the smallest size needed where it can still meet its objectives. However, the funding must also be sufficient to meet those objectives. If this means that by doing so the size of the fund is directly tied to its objectives, then the outcome has been met.

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?

Response: OTA believes that it is not appropriate to put a stated limit on the size of the OUSF. OTA contemplates that the OUSF in its existing form will transition over time to a broadband fund. There should be a mechanism in place that allows for a review of the fund to be sure that funding is needed and being used for the purposes of the fund. However, there should not be a stated limit on the size of the fund. There are other mechanisms that can be used to limit the size of the fund. The most obvious is to limit the number of carriers that can draw in any specific geographic area.

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?

Response: As stated, this issue contemplates that there would be local rate increases before USF support is calculated. OTA believes that is not the appropriate mechanism. OTA agrees that there should be a benchmark used in calculating OUSF draw for a company, but that benchmark is not a precursor to the draw. In other words, it is part of the process itself.

Further, as the rates set out on Table 5 demonstrate, there is very little room for increasing local rates.

Any benchmark should be one where a company has the option of increasing rates to that benchmark or imputing the revenue that would otherwise be raised by increasing the rates to a benchmark as part of calculating OUSF support amounts.

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?

Response: The Commission has all the tools it needs today to analyze whether or not a company is over-earning and should be subject to a show cause provision related to the level of rates it is charging its customers. For cooperative companies, those companies are subject to the governance of their members. If the members feel that the company is charging rates that are inappropriate, those members can replace the board of directors of the company, who, in turn, can replace management and change the direction of the cooperative. See, in addition, the response to Issue 39, below.

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?

Response: OTA has filed substantial comments before the FCC explaining why this is a substantial problem. The primary danger from an auction system is the potential to discourage investment in rural areas. A copy of OTA's Comments filed with the FCC on July 2, 2007, is attached as Appendix A.

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?

Response: The fund should not provide ARRA type grants.

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?

Response: This question has been discussed in responding to other issues. Support must go to the companies to support the network in those areas. Support in the form of vouchers is an undue complication and expense of administration that is not warranted. There is no indication that vouchers actually make their way back into investment in infrastructure. A voucher system would not meet the requirements of 47 U.S.C. § 254 that support be predictable and sufficient. The use of vouchers presents an unpredictable situation which, in turn, deters investment by increasing the risk of such investment. A voucher system would not provide a healthy network to deliver communications services in rural Oregon.

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

Response: This issue has been discussed previously. Its underlying assumption presumes facts that would violate Section 254 and ORS 759.425. Thus, it is inappropriate.

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

Response: OTA assumes that this question is meant to apply in those circumstances where there is an unsubsidized wireline competitor that overlaps a portion of the exchange for which the ILEC is seeking support. Breaking an exchange apart into cost components is extraordinarily difficult at this point in time. It is not clear whether there is any realistic and efficient mechanism that can be used to address this particular issue.

Future Accountability:

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

Response: This issue has been addressed in the discussion of other issues. Briefly, the Commission now sees annual filings for OECA members. In addition, it receives Form I and Form O from ILECs. Further, the Commission receives and reviews annual ETC filings. If in the future it proves these mechanisms are not sufficient, it could be possible to amend the existing statutes to allow for some sort of review. The costs of such a review should be commensurate with the possible benefits. What has been demonstrated in the real world is that the USAC style of audits are an incredible waste of resources. In addition, please see the response to Issue 39, below.

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?

Response: See the discussion for Issue 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?

Response: Vouchers should not be used. Simply stating this issue demonstrates why the voucher system should not be used. There is no way for the Commission to be able to police a voucher system. It would substantially increase the cost of administration and would be ineffectual. Would the Commission really contact each customer that receives a voucher and inspect their records to ensure that the vouchers are used for their intended purpose? It just would not work.

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

Response: No, for several reasons. At the basic level, the Commission has several tools available to it to be sure that the funds that are received from the OUSF are used for their intended purposes. That should be the ultimate goal for accountability in a USF system. OECA recognizes that there is a desire to keep the fund as small as possible and OECA supports that goal. However, it would not be appropriate to try to reach OUSF goals through a subsidy from other operations that a company might have. In addition, there are several other issues that come into play.

First, the Commission does not currently have jurisdiction that would allow it to review total company earnings. Second, what would be the purpose of such review? For example, if a company has an unregulated line of business in which it is losing money, does that mean it is entitled to additional support? In other words, will the OUSF support unregulated lines of business? Third, what is the relationship between unregulated lines of business and the OUSF? If a company has a construction arm that provides construction facilities for the installation of utilities to unrelated third parties, what relationship does that have to the OUSF?

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

Response: No. While there should be accountability and review, requiring companies to go to the extent of actually "itemizing" how they spent the money is going too far. The Commission has several tools available to it without going to the detail of "itemization." These tools include the annual OECA filing for OECA members, the Form O and Form I filings by ILECs, and the annual ETC filings. These types of filings should be made by any carrier drawing from the OUSF.

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?

Response: The current methods of distribution appear to be efficient and targeted and should be continued in the future.

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?

Response: Yes. EAS routes or areas are created by Commission order. It is a methodology to identify a community of interest for the calling exchange customers. Since it provides the methodology to meet community of interest needs, it should be included as part of the basic service of the customers.

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?

Response: No. While OTA supports the idea that support received from the OUSF should be spent in Oregon, there should be some flexibility in providing support for the network in multiple wire center companies. One wire center may need all of the money for investment in one year and another wire center may need all of the money for investment in the second year. It is not a

perfect world where the pro rata amount of money can be spent to provide the network in each wire center each year for a multiple wire center company.

Future Look at Carrier of Last Resort (COLR) Obligations:

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

Response: Yes.

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?

Response: COLR obligations are tied to providing supported operations in areas where the customer base is too small to support the network on their own. If an entity is to receive OUSF, it should make the commitment to provide service to all customers it can reasonably serve, consistent with the Commission's line extension and other established policies.

COLR obligations might evolve over time, particularly as the PSTN evolves to a PBN.

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

Response: Yes, consistent with the response to Issue 44.

46. Should COLR obligations be based on any one technology such as wire-line or wireless?

Response: The obligation for COLR for OUSF recipients is to provide service to those who desire service consistent with Commission policies. It should be the same obligation regardless of technology used. The same quality of service to satisfy COLR obligations should be met regardless of technology used. The COLR obligation should be tied to the OUSF support that is received for meeting that obligation.

Future Broadband Deployment:

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

Response: Yes.

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?

Response: The concept of a minimum standard upload and a minimum download speed is one found in the National Broadband Plan. It is a measurement of the capacity to send and receive broadband and to participate in the broadband-based communications and economic opportunities. OTA does not object to having minimum standards established. However, OTA cautions that minimum standards should be part of the process of developing the size of a broadband-based OUSF. There are certain levels of speed that can be easily accommodated. There are other levels of speed (such as 100 megabit standard) that may require significant additional investment in some areas. Another important consideration is how the standard is measured. There are various measurement standards and various points at which measurement can occur. These all need careful consideration.

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

Response: The Commission should establish a broadband goal and revisit that goal from time to time. In establishing standards for broadband service, the guiding principle of 47 U.S.C. § 254 that comparable rates should be charged for comparable services that are provided in rural areas compared to those in urban areas should be maintained.

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

Response: No. A goal should be established, but it should be recognized that it may take some time to meet a goal and that OUSF support is needed to reach the goal.

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

Response: All costs of providing broadband should be taken into account. In some areas, middle mile costs are very significant with there often being only one, or at least limited, middle mile alternatives.

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?

Response: It is important to keep in mind that it is not just the construction of the network on its own that is the issue. The ongoing operation and maintenance of the network are key components of being able to provide adequate broadband service. The fact that certain rural ILECs can provide certain levels of broadband service today does not mean that the job is over. Ongoing costs cannot be supported by the existing customer base and still have the network continue to evolve to meet customer needs.

Set out below is a chart that depicts where OTA members are in the progress of deploying broadband as of the spring of this year. This is a good start. However, it is by no means "mission accomplished." Nor does this reflect the costs of construction, operation and maintenance that need to be provided to make the network a viable network.

OTA MEMBERS - BROADBAND COVERAGE

Twenty-Seven Companies

100% - 15
98-99.9% - 4 (1 will be 100% EOY)
90-97% - 4 (1 will be 100% EOY)
80-89% - 2
<80% - 2

Typical speed 6 mg down; many exceed this speed

Note: 6 mg is not always available to 100% of the customers in an exchange. Often 1.5/512 is available in remaining area of the exchange (speed availability varies considerably by company). Middle Mile costs and availability limits speeds for many companies. To improve speeds, Middle Mile costs need to be supported.

The network cannot be advanced, or even maintained, without support. The level of coverage described above will disappear without an adequate level of support for ongoing maintenance and operation.

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?

Response: As noted, OTA's position is that the Commission should establish a broadband goal and equip the OUSF with the funds to meet that goal.

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?

Response: No. Company size is not a determining factor in the need to support the development of robust networks that provide the communications needed in rural Oregon.

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

Response: In order to limit the size of the fund, OTA believes that there should be a limit to the number of companies that should receive support. It may be that the size of the fund means that only one carrier per geographic area receives support from the OUSF. It may mean that only one wireline and one wireless provider receive support from the OUSF.

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

Response: The Commission should tie geographic coverage requirements to COLR obligations.

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?

Response: The just, reasonable and affordable rates that are being paid today are set out on Table 5. For many companies, these are at the maximum range of reasonableness and should not go higher. The rates for some companies should be reduced with OUSF support.

The Commission's current line extension system is reasonable and does not need adjustment.

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?

Response: The choice of the medium to deliver broadband services should be left to a company's discretion. In some areas, fixed wireless facilities may be the economic choice. In other areas, fiber may be the economic choice.

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?

Response: This issue has been discussed while discussing other issues.

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?

Response: This issue seems to be a restatement of some of the general principles in Section 254.

If support is provided by the OUSF for the network to provide communication needs in rural Oregon, these matters will be answered in a reasonable way.

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

Response: The mere presence of an unsubsidized competitor does not answer the entire question. An important component in the discussion is the role of COLR. What carrier will meet that obligation? If it is the ILEC that has to meet that obligation, then there is not reason why support should not continue. In addition, the network in the relatively more dense area is an integral component of that portion of the network that serves the more scattered customers in an exchange. There is no cost effective means to try to segregate the network into component parts that makes any sense at the present time.

Future Level of Support:

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

Response: If this issue is meant to raise the issue of auctions, then auctions are an unreliable means of providing service in an area. Please see OTA's prior FCC Comments contained in Appendix A on the subject of auctions.

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

Response: This issue has been discussed as it relates to voice grade service. For broadband service, it is too early to discuss benchmarks. The point that OTA advocates is that the Commission should have the ability to transition the existing OUSF to a broadband fund. However, it is not necessary to flesh out all of the details at this time. Nor is it possible to address this question without knowing the other components of the broadband fund.

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

Response: The level of support should take into account access reform issues and should be what is needed to fulfill the goals of Section 254 and ORS 759.425.

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?

Response: Auctions are simply not a viable process. They may provide short run savings, but do nothing to ensure a viable network that will continue into the future. See OTA's prior FCC Comments set out in Appendix A.

Future Funding:

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

Response: Yes. The principle that OTA advocates is that any provider of services that uses the PSTN/PBN to facilitate those services should contribute to that network. Since both wireless and VoIP-based providers utilized the wireline network to support origination and termination of calls, they should be required to contribute to the OUSF.

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

Response: The broadest contribution base possible should be used for the OUSF. In taking this step, it is clear that the wireless exemption from contribution to the existing OUSF that is contained in statute should be repealed. Further, the guiding principle should be that all providers that use the rural network should help support that network. In other words, any service provider that sends traffic to the PSTN should be subject to similar compensation obligations, regardless of whether that traffic originates on the PSTN, on an IP network, on a cable network or on a wireless network.

In responding to this issue, OTA is cognizant that there is some support for moving from a revenue based contribution methodology to some other methodology such as working telephone numbers. If such a change is made at the federal level, the Commission should have the tools available to it to make a similar change at the state level.

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

Response: All providers that utilize the network in the provision of communications service should contribute to the support of that network. The network in rural Oregon is a vital part of wireless services in rural Oregon. The network in rural Oregon allows VoIP-based providers to reach customers in rural Oregon. The network in rural Oregon is the basis in large part on which customers in rural Oregon receive broadband services. For all these reasons, all providers that utilize the network should contribute to the support of the network.

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

Response: This issue is addressed under Issue 67, above.

70. How should the amount of support be determined?

Response: This issue has been discussed in addressing other issues. The funding should be based upon the objectives of the OUSF and should be sufficient to enable those objectives to be realized.

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

Response: OTA's position is that any provider of communications service that utilizes the network should support the network.

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?

Response: Yes. OTA believes that the details related to the transition need to be left for a future Commission proceeding.

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

Response: No. OTA's position is that the existing mechanism should be transitioned over time to a broadband fund. There does not need to be a separate broadband fund.

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?

Response: It is OTA's position that it is premature to try to work on all the details of the concept of a transition to a broadband fund at the present time. Those matters should be worked out in a separate docket.

Tribal Lands:

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

Response: This appears to be a question of federal law. Even so, it is OTA's position that all telecommunications providers that receive support from the OUSF should follow currently existing rules. This is particularly true in meeting COLR obligations.

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?

Response: There are existing mechanisms that would allow any customer, whether that is a Tribal Council, individual or business, to complain to the Commission concerning the level of service that is received. There is no change that is needed. If a customer feels aggrieved by the service that it is receiving, existing mechanisms can be used to seek relief.

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?

Response: Existing rules allow any entity that meets the qualifications for designation as an ETC to apply for and receive that designation. All providers that seek ETC designation should be subject to the same level of responsibility and oversight. All entities that receive OUSF support should be held accountable for how they use that support. If the intent behind this Issue is that it is seeking input on whether Tribally-owned providers can be eligible to apply for ETC status, then the answer is that under the current rules such an entity is eligible. If the intent of this Issue is to seek comment on whether a Tribally-owned provider should automatically qualify for OUSF support even if it does not meet the standards for designation for ETC status, then the

answer is no. All providers should meet the same standards and have the same responsibilities if they receive OUSF support.

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?

Response: The existing rules for ETC designation allow any entity that meets the standards to be designated as an ETC to apply for and receive that designation. Any provider that seeks ETC designation should be required to meet the same standards as any other entity that has been designated as an ETC.

CONCLUSION

Thank you for the opportunity to submit these Opening Comments. OTA's recommendations to the Commission include the following core points:

- The existing OUSF has worked, is meeting its purpose and is still needed.
- The rural network in Oregon is a necessary component of providing universal communications and economic development in Oregon, but needs support to continue.
- The OUSF should be modified to broaden its contribution base and be modified, if needed, to accommodate additional access reform.
- The Commission should be given the authority to transition the existing OUSF, as modified, to a broadband fund over time.
- Only one fund is needed.
- A voucher system is administratively inefficient and is contrary to the public policy goals of Section 254 and ORS 759.425.

These are the core recommendations. There is much more detail that surrounds these core recommendations and that detail is discussed in the foregoing Opening Comments.

Respectfully submitted this 25th day of October, 2010.

By: _____
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APPENDIX A

**BEFORE THE FEDERAL COMMUNICATIONS COMMISSION
Washington, D.C. 20554**

In the Matter of)	
)	
Federal-State Joint Board on)	WC Docket No. 05-337
Universal Service Seeking Comment)	
on the Merits of Using Auctions to)	
Determine High-Cost Universal)	CC Docket No. 96-45
Service Support)	

**REPLY COMMENTS
OF
THE OREGON TELECOMMUNICATIONS ASSOCIATION
SMALL COMPANY COMMITTEE,
THE WASHINGTON INDEPENDENT TELEPHONE ASSOCIATION
AND
THE MONTANA TELECOMMUNICATIONS ASSOCIATION**

July 2, 2007

I. INTRODUCTION AND SUMMARY

The Montana Telecommunications Association ("MTA"),¹ the Oregon Telecommunications Association Small Company Committee ("OTASCC")² and the Washington Independent Telephone Association ("WITA")³ are joining together to file these Reply Comments. The members of MTA, OTASCC and WITA are rural telephone companies that provide telecommunications services to high-cost, low-density areas in the States of Oregon and Washington.

In these Reply Comments, MTA, OTASCC and WITA advocate that if reverse auctions are to be used at all, they must be implemented carefully, slowly and on a trial basis. The disincentive for investment in rural areas that may come with reverse auctions requires extremely careful consideration before implementation begins.

MTA, OTASCC and WITA strongly advocate the elimination of the Identical Support rule. The Identical Support rule is not technologically neutral and has long outlived any usefulness it might have once had. The elimination of the Identical Support rule is the first step in long-run universal service fund reform.

Beyond elimination of the Identical Support rule, MTA, OTASCC and WITA advocate that additional long-run universal service fund reform can be helped by adoption of a meaningful public interest test. Further, long-run universal service fund reform can be assisted by moving to a new support mechanism, specifically the working number concept. Further, long-run universal service fund support reform can be enhanced through the use of an eligible telecommunications

¹ The Montana companies participating in the MTA Reply Comments are the same as those identified in the Opening Comments that were filed on behalf of MTA.

² The Oregon companies participating in the OTASCC Reply Comments are the same as those identified in the Opening Comments that were filed on behalf of OTASCC.

³ The Washington companies participating in the WITA Reply Comments are the same as those identified in the Opening Comments that were filed on behalf of WITA.

carrier (ETC) threshold such as that advocated by the National Association of State Utility Consumer Advocates ("NASUCA"). Under this concept, in those areas where high-cost universal service support is above a per-line threshold (NASUCA uses a \$30.00 per line, per month threshold) then only one ETC is appropriate. This concept is based upon the need to be sure that universal service support meets the requirement of Section 254 that such support be "sufficient and predictable."

II. IF REVERSE AUCTIONS ARE TO BE USED AT ALL, THEIR INTRODUCTION MUST BE CAREFUL AND WELL-PLANNED

The use of reverse auctions for high-cost universal service funding is very controversial. A number of commenters heavily criticize the use of reverse auctions in the opening round of comments. For example, some segments of the wireless industry argue that any of the existing auction proposals unfairly favor the incumbent wireline carrier and are inconsistent with the principles embodied in Section 254. These comments argue that auction proposals would lead to regulation of wireless rates and would stifle competition and innovation.⁴

In the opening round of comments, commenters pointed out the difficulty of designing a functional reverse auction system. As stated in the comments of Consumers Union and Consumer Federation of America: "Though the idea of reverse auctions is appealing from a theoretical standpoint...the idea remains untested and is fraught with potential program design hazards."⁵ Consumers Union and Consumer Federation of America go on to point out that some of the problems that are encountered in auction design including a need to design a system where

⁴ Comments of Rural Cellular Association and the Alliance of Rural CMRS Carriers at p. 32-37. See, also, Comments of United States Cellular Corporation and Rural Cellular Corporation at p. 33-38.

⁵ Comments of Consumers Union, Consumer Federation of America and Free Press ("Consumers Union, et al.") at p. 53.

the participants are not encouraged to overbid. Another issue they identify is developing the correct contract length. If contract length of service support is too short, carriers have a reduced incentive to make capital investments or provide high level customer care and support. If the contract term is too long, it locks out innovative competition.⁶ Finally, they point to academic research that reverse auctions just do not work.⁷

Perhaps the biggest concern over the use of reverse auctions to determine high-cost universal service support is the potential effect this may have on investment in rural areas. A great deal of weight should be given to the comments submitted by CoBank.⁸ CoBank identifies that it has 2.9 billion dollars in loan commitments to over two hundred rural communication companies nationwide.⁹ CoBank cautions that “[r]everse auctions have the potential to severely disrupt the provisioning of universal service to rural America.”¹⁰

CoBank goes on to explain its concern:

Access to debt capital would be significantly reduced under a reverse auction system. Lenders demand a high degree of certainty about the repayment capacity of a borrower. In general, the higher level of uncertainty about future cash flow, the less debt capital is made available to a borrower. If the ILEC, or even a competitive ETC such as a wireless carrier, is faced with the possibility of losing access to universal support funding at some future auction date, then lenders will naturally wish to restrict the amount of debt made available to those borrowers as the auction date approaches. If a borrower loses its option bid, then it may be unable to repay its loans. This could impair the ability of service providers of all types to meet the growing telecommunication needs of rural Americans.¹¹

This alone should raise serious reservations concerning the use of auctions to determine high-cost support.

⁶ Consumers Union, et al. at p. 54.

⁷ Ibid.

⁸ Comments of CoBank, ACB.

⁹ Comments of CoBank, ACB at p. 2.

¹⁰ Comments of CoBank, ACB at p. 3.

¹¹ Comments of CoBank, ACB at p. 3-4.

Some comments reject the use of reverse auctions. As stated by OPASTCO, "The use of reverse auctions for rural ILECs should be rejected, as they would place at significant risk the continued availability of 'reasonably comparable' services and rates to consumers in rural service areas."¹² OPASTCO goes on to point out that reverse auctions will discourage investment in rural infrastructure and may make obtaining debt financing on reasonable terms more difficult.

NTCA also doubts that reverse auctions are proper. NTCA underscores that "The object of high-cost support is to ensure that consumers in rural areas receive comparable services to those received by urban customers and that they are able to obtain those services at comparable rates."¹³ NTCA describes a reverse auction system as "highly unlikely to achieve this objective."¹⁴ NTCA goes on to identify the requirement in Section 254 that support be "specific, predictable, and sufficient" and concludes that "support to the lowest bidder is inconsistent with the notions that companies must invest in networks to maintain service and that the evolution of the definition of universal service requires additional and timely investment in new technologies."¹⁵

Many of those commenters that offer at least tepid support for some form of reverse auction proposal would limit the use of reverse auctions to tests or special circumstances. For example, NASUCA does not see the need for an auction system to be adopted.¹⁶ However, NASUCA argues that if an auction concept is adopted, "a wireless auction should precede a

¹² Comments of the Organization for the Promotion and Advancement of Small Telecommunications Companies at p. 12.

¹³ National Telecommunications Cooperative Association Initial Comments ("NTCA Comments") at p. 7-8.

¹⁴ Ibid.

¹⁵ Ibid.

¹⁶ Comments of the National Association of State Utility Consumer Advocates on "Long-Term, Comprehensive High-Cost Universal Service Reform" ("NASUCA Comments") at p. 7.

broader test of the auction process.¹⁷ In discussing the Verizon auction proposal, NASUCA also agrees with Verizon that there should be an evaluation of the wireless auction process prior to proceeding to broaden the scope of auctions and also agrees that there is a need to evaluate the results of all the tests before broadening the design of the auction.¹⁸ It should be noted that NASUCA does not endorse the Verizon auction concept, but is stating that if a reverse auction system is adopted, the two-step process (wireless first) and the cautions of careful review offered by Verizon are good points to incorporate into such a system. As another example, Consumers Union and Consumer Federation of America support use of auctions only under a pilot program.¹⁹

CenturyTel suggests that reverse auctions should be used only in limited circumstances. CenturyTel points to two areas in which reverse auctions could be used. The first is where there are multiple CMRS carriers seeking support. In this situation, a reverse auction could be used to select a single wireless competitive ETC per market.²⁰ CenturyTel argues this reverse auction process could be undertaken to meet the Joint Board's stated goals of minimizing the burdens of the fund on consumers and reducing fund growth, while not putting network infrastructure and, hence, universal service at risk.²¹

The second area where CenturyTel identifies that reverse auctions could be used is to determine who should serve currently unserved areas. This use of reverse auctions would have the effect of identifying the amount of support needed to bring telecommunications service to an area that does not have service today.²²

¹⁷ NASUCA Comments at p. 10.

¹⁸ Ibid.

¹⁹ Consumers Union, et al. at p. 55.

²⁰ Comments of CenturyTel, Inc. to May 1 Joint Board Public Notice ("CenturyTel Comments") at p. 12.

²¹ Ibid.

²² CenturyTel Comments at p. 12-13.

In the Public Notice for this round of comments, the Joint Board asked for comment on the Verizon and CTIA proposals and on the broadband auction proposal from Alltel.²³ Given the direction of the initial round of comments, MTA, OTASCC and WITA will not comment specifically on the analyses of these proposals presented in the initial round of comments in any detail. However, MTA, OTASCC and WITA do endorse the concise critiques of those three auction models contained in NTCA's Comments.²⁴

For all of the reasons set out in the initial round of comments that are discussed above, MTA, OTASCC and WITA urge the Joint Board to maintain a very healthy skepticism about the viability of reverse auctions. If reverse auctions are to be used, they must be used very carefully and should be deployed only in limited circumstances.

III. THE IDENTICAL SUPPORT RULE MUST BE REMOVED

There is a very strong voice in the initial round of comments for removal of the Identical Support rule. MTA, OTASCC and WITA have advocated removal of the Identical Support rule in the past and continue to do so.

Perhaps the most succinct statement for removal of the rule is contained in the comments submitted by NASUCA. NASUCA emphasizes that it has argued for years that competitive ETC support should be based on the competitive ETC's own costs. NASUCA goes on to assert that "[i]t should be clear that the Identical Support rule is itself not competitively neutral. It is

²³ Public Notice, Federal-State Joint Board on Universal Services Seeks Comment on Long-Term, Comprehensive High-Cost Universal Service Reform, WC Docket No. 05-337, CC Docket No. 96-45, FCC 07J-2 (rel. May 1, 2007) at ¶2.

²⁴ NTCA Comments at p. 5-7.

competitively neutral to give each carrier only what it needs to ensure that its rates are affordable and reasonably comparable, **based on its own costs.**"²⁵ (Emphasis in original.)

The parties that argue for retention of the Identical Support rule are those wireless, competitive ETCs. These are the wireless, competitive ETCs that are currently drawing support based on the Identical Support rule.²⁶ In every other venue, these carriers argue that all things must be competitively and technologically neutral. What the arguments of the wireless, competitive ETCs demonstrate is one of two things: either (1) their costs are higher than the rural incumbent LEC, which belies their oft-repeated argument that wireless ETCs are more efficient, or (2) they know that their costs are lower than the incumbent ETC and are seeking to continue to reap a windfall of support that is higher than their costs.

This situation should not be allowed to continue. The Identical Support rule must be brought to an end.

IV. STEPS TOWARDS MEANINGFUL UNIVERSAL SERVICE REFORM

In addition to eliminating the Identical Support rule, MTA, OTASCC and WITA believe that there are other steps that the Joint Board can recommend be taken for high-cost universal service fund reform.

The first of these is to be sure that the contribution base is fundamentally sound. As some of the commenters note, this includes moving to a working telephone number basis for support.²⁷ It also includes requiring broadband providers to pay into the fund.

Another possible recommendation would be to give strong consideration to limiting the

²⁵ NASUCA Comments at p. 20.

²⁶ See, e.g., Comments of United States Cellular Corporation and Rural Cellular Corporation.

²⁷ See, e.g., AT&T Comments at p. 3-4.

number of ETCs in a single high-cost territory. NASUCA resurfaces the proposal by Billy Jack Gregg, a NASUCA representative and Joint Board member, that in rural study areas receiving \$30.00 per line, per month in support or more, it should be presumed that only one ETC, the incumbent LEC, should be designated.²⁸ Under the NASUCA stratification, if support is at or above \$20.00 per line, per month and less than \$30.00 per line, per month, there should be one competitive ETC. If the support is less than \$20.00 per line, per month, there would be no preset limit on the number of competitive ETCs that could be designated. MTA, OTASCC and WITA support the concept at the \$30.00 per line, per month level, but have no substantive comment on the other two stratifications.

Both NTCA and NASUCA, among others, argue that the FCC's public interest test should be made mandatory for the states. MTA, OTASCC and WITA concur.

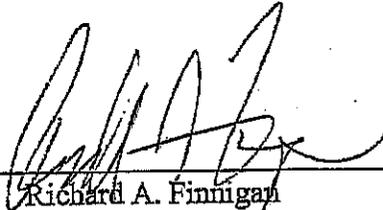
V. CONCLUSION

The removal of the Identical Support rule, capping of the number of ETCs available in very high-cost areas, and mandating the use of a stronger public interest test on the distribution side of the equation, and moving the contribution base to working telephone numbers and including broadband providers on the contribution side of the equation are all steps that can be taken in the near future to provide meaningful reform for the high-cost universal service fund program.

²⁸ NASUCA Comments at p. 21-22.

Respectfully submitted this 2nd day of July, 2007.

By: _____



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CERTIFICATE OF SERVICE
UM 1481

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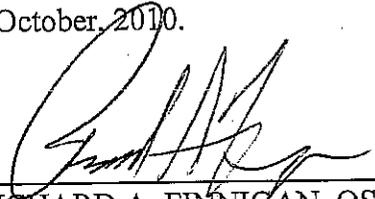
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