



CARLA M. BUTLER

April 16, 2013

Oregon Public Utility Commission  
Filing Center  
550 Capitol St., NE, Suite 215  
P.O. Box 2148  
Salem, OR 97308-2148

RE: UM 1481 – Oregon Universal Service Fund

Dear:

Enclosed for filing please find an original and one copy of the Joint Motion to Adopt Agreement and Explanatory Brief, with Stipulation (Attachment 1), along with a certificate of service. The original signature documents will arrive in the next day or two.

If you have any questions or concerns regarding this filing, please contact Tre Hendricks, counsel for CenturyLink.

Sincerely,

A handwritten signature in cursive script that reads "Carla M. Butler".

Carla M. Butler  
Paralegal

Enclosures  
cc: Service List

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BEFORE THE PUBLIC UTILITY COMMISSION OF OREGON

UM 1481 (Phase II)

In the Matter of  
PUBLIC UTILITY COMMISSION OF  
OREGON  
Staff investigation of the Oregon  
Universal Service Fund.

**JOINT MOTION TO ADOPT  
STIPULATION AND EXPLANATORY  
BRIEF**

**I. MOTION TO ADOPT STIPULATION**

1. The Parties, as defined in Paragraph 2, below, to this docket have agreed to settle the issues in Phase II of this docket as described in this Motion. The settlement is memorialized in a "Stipulation" attached to this Motion. The Stipulation is subject to Commission approval. The Parties ask the Commission to approve the Stipulation. The Parties file this Motion pursuant to OAR 860-001-0350(7). The Parties also include in this Motion an explanatory Brief in support of the Stipulation, in accordance with OAR 860-001-0350(7)(a). The Parties offer the Stipulation and Brief as evidence in this proceeding.

**PARTIES**

2. The Parties to the Stipulation are as follows:

Citizens' Utility Board of Oregon  
Comcast Phone of Oregon, LLC

CenturyLink<sup>1</sup>  
Frontier<sup>2</sup>  
GVNW Consulting, Inc.  
Oregon Cable Telecommunications Association  
Oregon Telecommunications Association  
Telecommunications Ratepayers Association for Cost-based and Equitable Rates  
Verizon<sup>3</sup>  
Warm Springs Telecommunications Company

3. The Parties, by signing this Motion, agree that the Commission should approve the Stipulation as a full and complete resolution of the issues presented in Phase II of this case, as set forth below. The Parties agree to support the Stipulation at a hearing, should one be deemed necessary, and recommend that the Commission issue an order adopting the entire Stipulation. If, however, the Commission does not adopt the entire Stipulation, the Parties reserve the right to withdraw from the Stipulation and ask the ALJ to resume Phase II of this docket.

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<sup>1</sup> The CenturyLink companies that are parties to this docket are Qwest Corporation d/b/a CenturyLink QC ("Qwest"), United Telephone Company of the Northwest, d/b/a CenturyLink ("United"), and CenturyTel of Oregon, Inc., CenturyTel of Eastern Oregon, Inc. (United and CenturyTel companies may be referred to as the "CenturyLink Rural Companies").

<sup>2</sup> The Frontier companies that are parties to this docket are Frontier Communications Northwest Inc. and Citizen's Telecommunications Company of Oregon.

<sup>3</sup> The Verizon affiliates that are parties to this proceeding include MCImetro Access Transmission Services LLC, d/b/a Verizon Access Transmission Services; MCI Communication Services, Inc., d/b/a Verizon Business Services LLC; Teleconnect Long Distance Services and Systems Company d/b/a Telecom\*USA; TTI National, Inc.; Verizon Long Distance LLC; Verizon Enterprise Solutions LLC; and Verizon Select Services, Inc.

## BACKGROUND

4. This phase of Docket UM 1481 was initiated by the Commission's acceptance of a Staff recommendation in Docket UM 1017.<sup>4</sup>

5. The Parties submitted a Joint Issues List on August 21, 2012. As part of that submission, the Parties sought a ruling on the issues that they would be expected by the Commission to address in this phase of the proceeding. On August 29, 2012, the ALJ issued a ruling designating the issues for consideration. A Pre-hearing Conference was held on September 24, 2012. At that time, certain requests for interventions were granted and a schedule was established. The procedural schedule was subsequently modified by agreement of the Parties, with the concurrence of the Commission. Under the revised schedule, Opening Testimony was filed on December 10, 2012, and Response Testimony was filed on January 30, 2013. Hearings were scheduled to begin on February 20, 2013.

6. After the testimony was submitted, the Parties engaged in a settlement discussion at a Settlement Workshop held on February 8, 2013. As a result of the first Settlement Workshop, the Parties reported to the presiding ALJ that substantial progress was being made and requested that the proceedings in this matter be temporarily suspended. A ruling granting that request was entered February 11, 2013. That ruling also required the Parties to file a progress report after the second Settlement

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<sup>4</sup> See Docket UM 1017, Order No. 12-204 (June 6, 2012).

Workshop scheduled for February 20, 2013. On February 22, 2013, Commission Staff filed a status report on behalf of all of the Parties indicating that the Parties had reached an agreement in principle. The Parties requested that the docket continue to be held in abeyance pending the filing of a formal settlement document. That request was granted by a ruling issued February 25, 2013, which directed the Parties to submit a settlement document or file a status report no later than April 1, 2013. A status report was filed on April 1, 2013, indicating that the settlement documents were in circulation. April 15, 2013, was established as the date for filing either the settlement documents or another status report.

## **II. EXPLANATORY BRIEF IN SUPPORT OF STIPULATION**

7. Oregon Administrative Rule 860-001-0350(7) allows the Parties to file an “explanatory brief” in support of a stipulation. The Parties provide the following discussion in support of their Stipulation.

### **SUMMARY OF THE STIPULATION**

8. The Stipulation will result in material reductions to the overall size of the Oregon Universal Service Fund (“OUSF”). The reductions will come in the form of a phase-down of the OUSF receipts for Non-Rural Companies<sup>5</sup> over three years, resulting in a \$17.5 million dollar level of annual OUSF support for Non-Rural Companies at the end of the three-year period (down from a 2012 support amount of \$27.2 million), and a

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<sup>5</sup> The Non-Rural Companies are Qwest Corporation and Frontier Communications Northwest Inc.

one-time reduction of \$1 million in funding that all Rural Companies will implement in the year beginning July 1, 2015.<sup>6</sup>

9. The Stipulation also provides that there may be an annual re-allocation of funding among the Rural Companies, subject to a five percent per year maximum decrease for any one company in any one year during the term of the Stipulation, except during the funding year beginning July 1, 2013. Specifically, the Commission may consider re-allocating OUSF funding among the Rural Companies, so long as (a) no re-allocation occurs before July 1, 2014, (b) any re-allocations will be decided upon by January 1, 2014 and implemented on July 1, 2014 (subject to the normal two-month OUSF lag), and (c) reductions for any company will be no more than 5% of the total amount of OUSF funding the company receives in a year. Any re-allocation for the period beginning July 1, 2015 (subject to the two-month OUSF lag) would take place after the agreed-upon \$1 million reduction to total funding is made, with the \$1million reduction to be implemented on a pro rata basis based on the companies' level of

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<sup>6</sup> Asotin Telephone Company d/b/a TDS Telecom, Beaver Creek Cooperative Telephone Company, Canby Telephone Association d/b/a Canby Telecom, Cascade Utilities, Inc., d/b/a Reliance Connects, CenturyTel of Oregon, Inc., d/b/a CenturyLink, CenturyTel of Eastern Oregon, Inc., d/b/a CenturyLink, Clear Creek Mutual Telephone Company, Colton Telephone Company, d/b/a ColtonTel, Eagle Telephone System, In., Gervais Telephone Company, Helix Telephone Company, Home Telephone Company d/b/a TDS Telecom Molalla Telephone Company d/b/a Molalla Communications Company, Monitor Cooperative Telephone Company, Monroe Telephone Company, Mt. Angel Telephone Company, Nehalem Telecommunications, Inc., d/b/a RTI Nehalem Telecom, North-State Telephone Co., Oregon-Idaho Utilities, Inc., Oregon Telephone Corporation, People's Telephone Co., Pine Telephone System, Inc., Pioneer Telephone Cooperative, Roome Telecommunications Inc., St. Paul Cooperative Telephone Association, Scio Mutual Telephone Association, Stayton Cooperative Telephone Company, Trans-Cascades Telephone Company, d/b/a Reliance Connects, and United Telephone Company of the Northwest, d/b/a CenturyLink..

support for the funding year 2014. Other than the overall \$1 million reduction that will take place in 2015, any amounts of OUSF support that are reduced for one or more Rural Companies shall be re-allocated to the remaining Rural Companies.

10. In addition, the Parties agree that the Commission should continue its review of certain issues relating to the OUSF in a new Phase III of this docket. The Stipulation sets forth a structure for Phase III that identifies the issues to be considered by the Commission and a general schedule for the review of those issues. Specifically, the Stipulation sets forth a three-part, sequential review of the following issues:

- (a) Accountability for the non-rural companies. This review will identify a method or methods for accurately estimating how OUSF funding is being directed to operating expenses in claimed high-cost areas.
- (b) Consideration of a methodology for allocation of ILEC network costs between basic telephone service and other services. This will include review of the cost models used to calculate OUSF support and will apply to the support calculation for all companies that receive OUSF support.
- (c) Consideration of a methodology for identifying areas in which there is unsubsidized competition and whether OUSF support should be provided in such areas. This review will apply to all Oregon companies that currently receive OUSF support.

Any Party, or the Commission on its own motion, may request to initiate the review of items (b) or (c) before item (a) is completed, provided that items (b) and (c) shall not be initiated before September 30, 2013.

11. The Stipulation provides that any changes to the OUSF resulting from the Commission's review of cost allocation methodologies and/or unsubsidized

competition will not be implemented before July 1, 2016 for Rural Companies or before January 1, 2017 for Non-Rural Companies.

12. Under the Stipulation, a qualified CLEC that is designated as an ETC for OUSF funding purposes will obtain funding at the ILEC per-line rate in the area where it serves. The Stipulation also provides that OUSF funding for the Warm Springs Telecommunications Company will be capped at \$1.5 million per year.

13. The terms of the Memorandum of Understanding approved in Order No. 12-204 in Docket UM 1017 shall be deemed amended, to the extent necessary to effectuate this Stipulation, by this Stipulation with the remainder of the terms and conditions of the Memorandum of Understanding remaining in full force and effect.

**THE STIPULATION IS IN THE PUBLIC INTEREST**

14. The Parties agree that the Stipulation results in a settlement of the issues in Phase II of this docket. The Stipulation fulfills the requirements that the Commission “establish and implement a competitively neutral and nondiscriminatory universal service fund” and that the fund be used “to ensure basic telephone service is available at a reasonable and affordable rate.”<sup>7</sup> By approving the Stipulation, the Commission will continue to provide support for universal service, provide carriers with clarity and certainty about funding levels for a three-year period, and reduce the financial burden on Oregon consumers that contribute to the program.

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<sup>7</sup> ORS 759.425(1).



15. The Parties agree that the terms of the Stipulation meet the requirements of the statute while providing the Commission with the ability and flexibility to continue to review certain additional issues relating to the fund that were raised by the Parties during this proceeding and that the Parties have agreed to address further in Phase III of the docket. The three-pronged approach for Phase III set forth in the Stipulation affords the Commission an opportunity to develop a record to ensure that universal service is maintained in Oregon, consistent with ORS 759.425, and that the rights of the Parties are fully considered before the Commission implements any further changes to the OUSF. The Stipulation is a reasonable compromise among the Parties and, by entering into it, the Parties have avoided litigation that would have created uncertainty and delayed the benefits of the Stipulation.

#### **THE COMMISSION SHOULD APPROVE THE STIPULATION**

16. The Parties request that the Commission adopt the Stipulation with no changes. The Parties have agreed to the Stipulation as an integrated document. Within 15 days of the filing of a stipulation, a party not entering into the stipulation may file written objections to the stipulation or request a hearing, pursuant to OAR 860-001-0350(8). If there are no objections, the Commission should approve the Stipulation promptly.

17. In Order No. 12-204, the Commission indicated that prior to July 1, 2013, it would determine the terms and conditions of any further extension of the

Memorandum of Understanding approved in that order. The Parties recommend in the Stipulation that the Memorandum of Understanding attached to Order No. 12-204 be deemed to be amended to the extent necessary to conform to the Stipulation, with the remaining terms and conditions of the Memorandum of Understanding remaining in full force and effect.

### III. PROCEDURAL SCHEDULE

The Parties waive cross examination of one another at any hearing held to consider this Motion and Stipulation. In the event that Phase II of this docket resumes, the Parties agree to work cooperatively to develop a new procedural schedule taking into consideration the delay resulting from the filing and consideration of this Motion and Stipulation.

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IV. CONCLUSION

The Parties, therefore, request that the Commission promptly approve the attached Stipulation without modification or condition.

DATED: April 16, 2013

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#### IV. CONCLUSION

The Parties, therefore, request that the Commission promptly approve the attached Stipulation without modification or condition.

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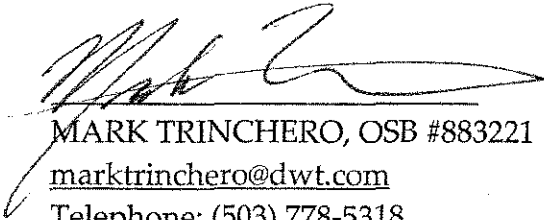
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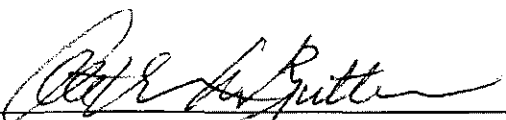
  
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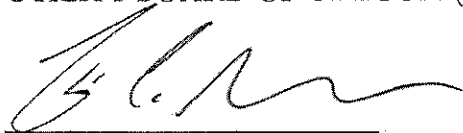
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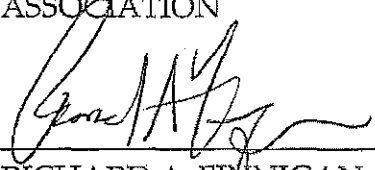
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#### IV. CONCLUSION

The Parties, therefore, request that the Commission promptly approve the attached Stipulation without modification or condition.

DATED: April 16, 2013

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remaining terms and conditions of the Memorandum of Understanding remaining in full force and effect.

### III. PROCEDURAL SCHEDULE

The Parties waive cross examination of one another at any hearing held to consider this Motion and Stipulation. In the event that Phase II of this docket resumes, the Parties agree to work cooperatively to develop a new procedural schedule taking into consideration the delay resulting from the filing and consideration of this Motion and Stipulation.

### IV. CONCLUSION

The Parties, therefore, request that the Commission promptly approve the attached Stipulation without modification or condition.

DATED: April 16, 2013

CENTURYLINK

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RICHARD A. FINNIGAN, OSB No.  
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WARM SPRINGS  
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## ATTACHMENT 1

### UM 1481 Phase II Stipulation

- 1) This Stipulation has a three-year term for Non-Rural Companies,<sup>1</sup> beginning January 1, 2014 and ending December 31, 2016, with funding decreases occurring on January 1, 2014, January 1, 2015, and January 1, 2016. The term for Rural Companies<sup>2</sup> is three years, beginning on July 1, 2013 and ending on June 30, 2016, with one funding decrease taking effect on July 1, 2015, subject to the normal two-month Oregon Universal Service Fund (OUSF) lag.
- 2) For Non-Rural Companies, the amount of OUSF funding will be fixed according to the schedule in paragraph 3 of this Stipulation and will not be affected by line counts. The final reduction in 2016 will result in a \$17.5 million level of annual OUSF support for Non-Rural Companies. For Rural Companies, there will be one pro rata reduction of \$1 million in funding, occurring on July 1, 2015. Rural Company OUSF receipts will not be affected by line counts, per the existing Memorandum of Understanding (MOU) approved in Order No. 12-204 in Docket UM 1017 on June 5, 2012, as modified by the Errata Order, Order No. 12-309.
- 3) The phase-down of OUSF support for the Non-Rural Companies will occur according the following schedule:

	<u>2014 Support</u>	<u>2015 Support</u>	<u>2016 Support</u>
Frontier Northwest	\$9.8 Million	\$8.4 Million	\$7.0 Million
Qwest Corporation	\$13.2 Million	\$11.8 Million	\$10.5 Million
Total	\$23 Million	\$20.2 Million	\$17.5 Million

- 4) The Parties agree to request that the Commission open Phase III of UM 1481, which will address three issues in the order of priority set forth below. While the Parties

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<sup>1</sup> The Non Rural Companies are Qwest Corporation d/b/a CenturyLink QC and Frontier Communications Northwest Inc. ("Frontier Northwest").

<sup>2</sup> Asotin Telephone Company d/b/a TDS Telecom, Beaver Creek Cooperative Telephone Company, Canby Telephone Association d/b/a Canby Telecom, Cascade Utilities, Inc., d/b/a Reliance Connects, CenturyTel of Oregon, Inc., d/b/a CenturyLink, CenturyTel of Eastern Oregon, Inc., d/b/a CenturyLink, Clear Creek Mutual Telephone Company, Colton Telephone Company, d/b/a ColtonTel, Eagle Telephone System, In., Gervais Telephone Company, Helix Telephone Company, Home Telephone Company d/b/a TDS Telecom Molalla Telephone Company d/b/a Molalla Communications Company, Monitor Cooperative Telephone Company, Monroe Telephone Company, Mt. Angel Telephone Company, Nehalem Telecommunications, Inc., d/b/a RTI Nehalem Telecom, North-State Telephone Co., Oregon-Idaho Utilities, Inc., Oregon Telephone Corporation, People's Telephone Co., Pine Telephone System, Inc., Pioneer Telephone Cooperative, Roome Telecommunications Inc., St. Paul Cooperative Telephone Association, Scio Mutual Telephone Association, Stayton Cooperative Telephone Company, Trans-Cascades Telephone Company, d/b/a Reliance Connects, and United Telephone Company of the Northwest d/b/a CenturyLink.

## ATTACHMENT 1

will endeavor to complete examination of each issue prior to commencing the investigation of subsequent issues, they acknowledge that some overlap may occur if necessary to complete resolution of all three issues in time to implement any results by July 1, 2016; however, neither subparagraph (b) nor (c) of this paragraph will be initiated before September 30, 2013:

- (a) Accountability for the Non-Rural Companies. This review will identify a method or methods for accurately estimating how OUSF funding is being directed to operating expenses in claimed high-cost areas.
  - (b) Consideration of a methodology for allocation of ILEC network costs between basic telephone service and other services. This will include review of the cost models used to calculate OUSF support and will apply to the support calculation for all companies that receive OUSF support.
  - (c) Consideration of a methodology for identifying areas in which there is unsubsidized competition and whether OUSF support should be provided in such areas. This review will apply to all Oregon companies that currently receive OUSF support.
- 5) Rural Company OUSF may be re-allocated among those rural companies that receive OUSF support.
- (a) Re-allocations will be decided upon by January 1, 2014 and implemented on July 1, 2014 (subject to the normal two-month OUSF lag).
  - (b) There will be no reductions of more than 5% for any one company (total OUSF funding per company) in a year. Re-allocations, if any, for implementation July 1, 2015 (subject to the two-month OUSF funding lag) will take place after the \$1 million reduction to total funding is calculated. The \$1 million reduction in funding will be implemented on a pro rata basis among the Rural Companies based on funding for the 2014 funding year. Other than the \$1 million pro rata reduction among Rural Companies, if OUSF support is re-allocated so that one or more Rural Companies' support is reduced, the support amounts resulting from reductions shall be re-allocated among the other Rural Companies.



## ATTACHMENT 1

- 6) Any changes resulting from the Commission's review of cost allocation methodologies and/or unsubsidized competition will not be implemented before July 2016 for Rural Companies or before January 2017 for Non-Rural Companies.
- 7) For the period January 1, 2014 through December 31, 2016, a qualified CLEC that is designated as an ETC for purposes of OUSF will draw at the ILEC per-line amount for the area it serves. There will be a \$1.5 million cap on the amount of annual OUSF support that the Warm Springs Telecommunications Company may receive.
- 8) The Parties agree that any Party may file a petition to request Commission review of this Stipulation if there is a substantive change in Oregon law that materially affects the terms of this Stipulation or there is a substantive change in federal law or Federal Communications Commission precedent that materially affects the terms of the Stipulation. The Parties further agree that the Stipulation will not automatically terminate merely because a Party has filed a petition as described above, but will continue until the Commission issues a final order that grants, denies or takes other appropriate final action upon the petition. Finally, each Party reserves the right to make whatever arguments it deems appropriate in any docket resulting from the filing of the aforementioned petition.
- 9) The terms and conditions of the Memorandum of Understanding approved by Order No. 12-204 in Docket UM 1017, as modified by the Errata Order, Order No. 12-309, shall be deemed to be modified, to the extent necessary, by the terms of this Stipulation, and the remaining terms and conditions of the Memorandum of Understanding shall remain in full force and effect.

## GENERAL PROVISIONS

- 10) The Parties understand that this Stipulation is not binding upon the Commission unless and until it is approved by the Commission.
- 11) This Stipulation does not preclude a party from explaining, as a factual matter, what the Parties agreed to in this Stipulation.

**ATTACHMENT 1**

- 12) The Parties agree that this Stipulation represents the entire agreement of the Parties and it supersedes any and all prior oral or written understandings, agreements or representation related to this Stipulation, if any, and no such prior understanding, agreement or representation shall be relied upon by any Party.
  
- 13) The Parties shall cooperate in submitting this Stipulation promptly to the Commission for acceptance, and cooperate in supporting this Stipulation throughout the Commission's consideration of the Stipulation.
  
- 14) The Parties enter into this Stipulation to avoid further expense, inconvenience, uncertainty and delay. By executing this Stipulation, no Party shall be deemed to have approved, admitted, or consented to the facts, principles, methods, or theories employed in arriving at the terms of this Stipulation. Nor shall any Party be deemed to have agreed that any provision of this Stipulation is appropriate for resolving issues in any other proceeding, except to the extent expressly set forth in this Stipulation.
  
- 15) This Stipulation may be executed in counterparts and each signed counterpart shall constitute an original document. A signed signature page that is faxed or emailed is acceptable as an original signature page signed by that Party.

This Stipulation is entered into by each Party as follows:

**CenturyLink**

**Frontier Communications**

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

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

Steve R. Davis

Ken Mason

Executive Vice President Public Affairs &  
Regulatory Policy

Vice President Government & Regulatory  
Affairs

Date: \_\_\_\_\_

Date: \_\_\_\_\_

ATTACHMENT 1

**Oregon Telecommunications Association**

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

Richard A. Finnigan

Attorney for OTA

Date: \_\_\_\_\_

**Citizens' Utility Board of Oregon**

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

G. Catriona McCracken

Date: \_\_\_\_\_

**Verizon**

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

Richard B. Severy

Date: \_\_\_\_\_

**Warm Springs Telecommunications  
Company**

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

Marsha Spellman

Date: \_\_\_\_\_

**Oregon Cable Telecommunications Assoc.**

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

Mark Trincherro

Of Attorneys for OCTA

Date: \_\_\_\_\_

**Public Utility Commission of Oregon Staff**

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

Jason W. Jones

Date: \_\_\_\_\_

**GVNW CONSULTING, INC.**

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

James Rennard

Date: \_\_\_\_\_

**TRACER:**

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

Arthur A. Butler

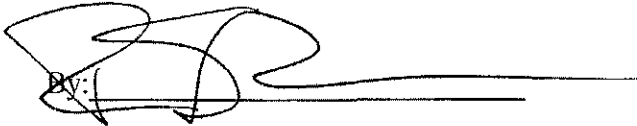
Of Attorneys for TRACER

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BY: \_\_\_\_\_

Steve R. Davis

Executive Vice President Public Affairs &  
Regulatory Policy

Date: 4/15/13

**Frontier Communications**

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

Ken Mason

Vice President Government & Regulatory  
Affairs

Date: \_\_\_\_\_

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Of Attorneys for OCTA

Date: \_\_\_\_\_

**Public Utility Commission of Oregon Staff**

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Jason W. Jones

Date: \_\_\_\_\_

**GVNW CONSULTING, INC.**

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James Rennard

Date: \_\_\_\_\_

**TRACER:**

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

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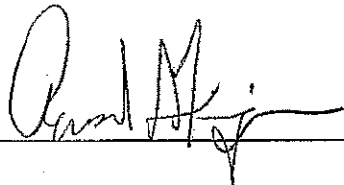
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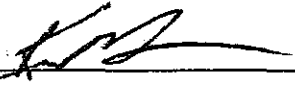
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Regulatory Policy

Vice President Government & Regulatory  
Affairs

Date: \_\_\_\_\_

Date: April 16, 2013

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Verizon

By: Richard B. Severy

Richard B. Severy

Date: April 16, 2013

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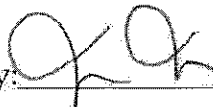
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Warm Springs Telecommunications  
Company

By: Marsha Spellman

Marsha Spellman

Date: Apr. 16, 2013

Oregon Cable Telecommunications Assoc.

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

Mark Trincherro

Of Attorneys for OCTA

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Jason W. Jones

Date: \_\_\_\_\_

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

James Rennard

Date: \_\_\_\_\_

TRACER:

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

Arthur A. Butler

Of Attorneys for TRACER

## CERTIFICATE OF SERVICE

UM 1481

I hereby certify that on the 16<sup>th</sup> day of April 2013, I served the foregoing **JOINT MOTION TO ADOPT AGREEMENT AND EXPLANATORY BRIEF** on behalf of the parties to settlement negotiations for the above entitled docket on the following persons via e-mail transmission only.

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