

BEFORE THE PUBLIC UTILITY COMMISSION OF OREGON

In the Matter of

PUBLIC UTILITY COMMISSION OF
OREGON

Staff investigation of the Oregon Universal
Service Fund.

Docket No. UM 1481

**JOINT MOTION OF OCTA AND
STAFF REQUESTING
CERTIFICATION OF ALJ'S RULING
TO THE COMMISSION**

MOTION

The Oregon Cable Telecommunications Association (“OCTA”) and the Oregon Public Utility Commission Staff¹ (“Staff”) hereby respectfully request that Administrative Law Judge (“ALJ”) Allan Arlow certify to the Oregon Public Utility Commission (“Commission”) the Ruling issued on December 3, 2012 (“the Ruling”) denying the OCTA’s Motions to Compel against the Oregon Telecommunications Association (“OTA”), Frontier Communications Northwest, Inc. (“Frontier”), and CenturyLink, Inc. (“CenturyLink”).

OAR 860-001-0420(3) CERTIFICATION

Pursuant to OAR 860-001-0420(3) OCTA made a good-faith effort to resolve these matters informally by conferring in a series of telephone calls beginning on December 7, 2012

¹ As discussed herein at pp. 3-4, Staff takes no position on the underlying motions to compel. However, Staff does seek clarification of the ALJ’s ruling to confirm that broadband revenues can be relevant to determine an allocation of the cost of providing basic telephone service on a network that provides more than one service.

with counsel for OTA, Frontier, and CenturyLink. However, the parties were unable to agree on whether certification to the Commission was appropriate.

BACKGROUND

On November 14, 2012, OCTA filed three motions to compel against OTA, Frontier, and CenturyLink (collectively, the “ILECs”), seeking to compel responses to data requests, including data requests to each of the ILECs concerning revenues from broadband services. The motions concerned OCTA’s First Sets of Data Requests to the various ILECs, which are set forth at length in OCTA’s motions to compel.²

CenturyLink declined to provide information relating to broadband revenues in response to these requests, objecting that the requests were beyond the scope of discovery. OTA relied on similar objections in declining to provide any broadband revenues. Frontier provided limited information on broadband revenues with respect to one data request, but otherwise withheld broadband revenue information based on objections like those made by OTA and CenturyLink.

In response to OCTA’s motions to compel, on November 20, 2012 Frontier and CenturyLink filed a joint response, while OTA made nearly identical arguments in a separate response. OCTA filed a combined reply in support of its motions on November 21, 2012, and on December 3, 2012, ALJ Arlow issued the Ruling. The Ruling denied OCTA’s motions to compel. The analysis of the Ruling included the following statements regarding the relevance of the revenue information sought by OCTA:

In Oregon, unregulated companies and the unregulated affiliates of regulated telecommunications service providers are authorized to receive subsidies from both the federal government and the Oregon Residential Service Protection Fund for providing cellular telephone service and handsets. No company receives greater or

² Representative data requests are attached. See Attachment A.

lesser subsidies on account of the size or success of its cellular telephone business. Each company's market penetration and revenues by wire center are no more relevant in the unregulated broadband market than they are in the unregulated cellular telephone market when it comes to the issue of providing a subsidy to making basic telephone service broadly available to the public. The information requested by OCTA is therefore not "reasonably calculated to lead to the discovery of admissible evidence," as required by ORCP 36B(1).³

OCTA and Staff now jointly request the ALJ certify the Ruling to the Commission so that the Commission can opine on whether the broadband revenues ILECs derive from the networks that are used to determine the costs of basic service for purpose of calculating the OUSF are relevant in this proceeding. It is the understanding of OCTA and Staff that the Commission opened this docket for the express purpose of investigating potential changes to the manner in which OUSF support is calculated and distributed. OCTA and Staff therefore believe the ALJ Ruling unduly restricts the issues and types of evidence that are relevant in this docket. OCTA and Staff believe that the issue of whether or not the Commission should take into account broadband revenues in calculating OUSF is relevant to this docket.

OCTA additionally requests certification because the specific information requested in its data requests is needed to prepare complete testimony regarding proposals for modifications to the manner in which the OUSF is calculated. Staff takes no position on whether the specific data requested by OCTA is necessary for OCTA to present its testimony, and therefore takes no position on whether CenturyLink, Frontier and OTA should be compelled to provide the specific data at issue in OCTA's motions to compel. Staff, however, joins in the motion to certify the question of whether evidence regarding broadband revenues could be relevant in this proceeding

³ Ruling, at 3.

for the purpose of allocating costs of the network to the portion of the network that provides basic telephone service.⁴

LEGAL STANDARD

Oregon Administrative Rule 860-001-0110(1) specifies that any party may request that the ALJ certify an ALJ's written ruling for the Commission's consideration within fifteen days.⁵ Under OAR 860-001-0110(2) the ALJ *must* certify the ruling to the Commission if the ALJ finds that *any* of the following are true:

- (a) The ruling may result in substantial detriment to the public interest or undue prejudice to a party;
- (b) The ruling denies or terminates a person's participation; or
- (c) Good cause exists for certification.

860-001-0110(2).

ARGUMENT

Certification is appropriate because the Ruling includes broad assertions concerning the relevance of broadband information that, in OCTA and Staff's view, appear to preclude full consideration of the very issues that are the focus of this phase of docket UM 1481. The approved Issues List in this docket includes the following question:

What changes should be made to the existing OUSF related to the calculation, the collection, and the distribution of funds.⁶

⁴ To the extent that the Ruling can be interpreted to suggest that broadband revenues are not relevant to create a method of allocation for shared services on the network, Staff respectfully requests clarification that proposals to look at broadband revenue to allocate shared services on one network are relevant. Furthermore, Staff notes that if broadband revenues cannot be considered at all to make some manner of allocation, broadband cost information may become more relevant as a way of allocating costs among shared services on a shared network in this proceeding.

⁵ This Motion, having been filed within 15 days of service of the Ruling, is timely per OAR 860-001-0110(2).

⁶ *Issues List Ruling*, at 2.

The scope of evidence relevant to this issue is broad, as is the scope of discovery. “Relevant evidence” includes all “evidence having *any* tendency to make the existence of any fact that is of consequence to the determination of the action more probable or less probable than it would be without the evidence.”⁷ OAR 860-001-0540 provides that “[a] party may submit data requests to any other party, subject to the discovery rules in the ORCP.”⁸ The Oregon Rules of Civil Procedure (ORCP), in turn, expressly *allows* discovery of “any matter, not privileged, which is relevant to the claim or defense of the party seeking discovery or to the claim or defense of any other party....”⁹ In light of this broad scope, the Ruling’s denial of discovery is erroneous.

The rationale set forth in the Ruling appears to be based on a presupposition that such changes with respect to calculation, collection, and distribution cannot include any consideration of broadband revenues derived from broadband services delivered over the very same telephone networks used to deliver the basic telephone services that the OUSF supports. However, such a presupposition implicitly prejudices the very issue that the Commission must address in this proceeding, and is therefore inappropriate as a basis for limiting discovery, testimony, other evidence and argument in this docket. Rather, even if the Commission ultimately determines that broadband revenues should play no role in the calculation of the OUSF -- those revenues, and testimony as to how they could factor into the calculations under ORS 759.425(a), *e.g.*, in determination of either the cost of providing basic telephone service or the benchmark, is relevant in determining whether to actually make use of such data.

⁷ ORS 40.150.

⁸ *See also* OAR 860-001-0000 (providing that the “The Oregon Rules of Civil Procedure (ORCP) also apply in contested case and declaratory ruling proceedings unless inconsistent with these rules, a Commission order, or an Administrative Law Judge (ALJ) ruling.”).

⁹ ORCP 36 B(1).

In essence, the Ruling appears to hold that because such revenues have not been the basis of the OUSF calculation in the past, then they cannot be relevant in the future. Yet the existence on the Issues List of the question of what changes should be made to the calculation of the OUSF shows that the future calculation mechanism is an open issue. Presuming that future calculations should accord with past practice is unwarranted. No resolution of that issue is possible now before consideration by the Commission of evidence and argument on that very issue.

Although the Ruling acknowledges the standard, by stating that “[t]he information requested by OCTA is therefore not ‘reasonably calculated to lead to the discovery of admissible evidence,’ as required by ORCP 36B(1),” none of the preceding discussion actually addresses whether the discovery requested could “lead to” admissible evidence. Instead, the entire basis of the decision appears to be that broadband revenues themselves are no more relevant than cellular telephone revenues.¹⁰

It appears that perhaps the Ruling’s reasoning is based on the misconception that the data was simply going to be used to measure ILEC profitability, and to suggest that OUSF funding should not be available to profitable companies. However, that misconstrues OCTA’s intent and the arguments in the Motions to Compel. OCTA’s motions make clear that the information would be used “to evaluate options for calculating and distributing future OUSF funds, and potentially present testimony to the Commission, including projections as to how the size of the OUSF might be impacted by such changes to the calculation of support.” To provide fully-informed testimony on how the OUSF should be calculated, OCTA maintains that it must be able to discuss, present testimony on, and obtain discovery concerning all the revenues and costs attributable to the telephone networks used to provide the services supported by the OUSF.

¹⁰ OCTA did not request cellular telephone data.

Because these same networks are used to supply other services, the revenues and take rates of these other services are needed in order to properly allocate the costs attributable solely to the supported services.

Allowing the Ruling's statements on relevance to stand would result in substantial detriment to the public interest, and could deny the Commission the opportunity to consider numerous ways that broadband revenues might be used in future calculation to create a fair and targeted OUSF. The same network is being used for narrowband and broadband services. Therefore, and in determining the costs of providing basic telephone service, or in the alternative establishing the benchmark, under ORS 759.425(3), the Commission should be able to at least consider all the revenues that are derived from that single network. For example, one means to change the calculation would be to allocate the costs of the network between basic service and broadband services based on the network revenues derived from those services, as explained on pages 39-44 of the Direct Testimony of August H. Ankum (OCTA/100, Ankum/39-44). Another possibility is to modify the benchmark by including the average broadband revenue per line in a revised benchmark calculation, as explained on pages 44-46 of Dr. Ankum's testimony (OCTA/100, Ankum/44-46).¹¹ Narrowing the scope of what is "relevant," to exclude even the exploration of these possibilities harms the public by denying the Commission the ability to consider new solutions to OUSF funding, and potentially could lead to the continuation of unnecessary subsidies funded by Oregon ratepayers.

Moreover, OCTA maintains that the Ruling unduly prejudices its ability to present comprehensive testimony in this proceeding on the issue of what changes should be made to the

¹¹ The relevant pages of Dr. Ankum's Direct Testimony are attached hereto. See Attachment B. Staff Witness Roger White also proposes to allocate network costs according to revenues. See Staff/100, White/16-17. The relevant pages of Mr. White's testimony are attached hereto. See Attachment C.

calculation of the OUSF. To illustrate, though Dr. Ankum's testimony provides estimates and projections based upon the limited data provided by Frontier, additional data from Frontier, CenturyLink, and OTA would allow for more accurate projections as to how the proposed cost allocation would affect the size of the OUSF, which would in turn allow the Commission to make a more informed public policy choice on the issue of how best to calculate OUSF support.

CONCLUSION

As explained above, the potential impact of the Ruling would harm the public's interest in a full and informed debate on what changes should be made to the calculation of the OUSF. Commission review of the Ruling is needed to ensure that the record before the Commission reflects the full range of calculation options consistent with ORS 759.425(3). Moreover, OCTA asks that the Commission be allowed an opportunity to review the decision denying discovery of ILEC revenues that it plans to use in providing projections and analysis of possible changes to the OUSF calculation, as explained above. For the foregoing reasons, OCTA and Staff respectfully request that the ALJ certify the Ruling to the Commission for consideration and disposition.

DATED this 10th day of December, 2012.

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ATTACHMENT A

Data Request OCTA-CTL 3. For 2011, provide CenturyLink's year-end line counts for the following services by wire center and ILEC study area (to the extent these data are not available at the wire center level, please provide the data at the lowest level of granularity available, such as rate center):

- A. Residential basic telephone service;
- B. Business basic telephone service;
- C. Residential broadband service provided by the company or its affiliates;
- D. Business broadband service provided by the company or its affiliates.

Data Request OCTA-CTL 4. For 2011, provide CenturyLink's average revenue per line for the following line types and by wire center and ILEC study area (to the extent these data are not available at the wire center level, please provide the data at the lowest level of granularity available, such as rate center):

- A. Residential local voice service;
- B. Business local voice service;
- C. Residential broadband service provided by the company or its affiliates;
- D. Business broadband service provided by the company or its affiliates.

Data Request OCTA-CTL 4. As of December 31, 2011, provide single-line residential local service line counts broken down by primary vs. non-primary lines, on a study area total basis. To the extent the company has no direct categorization of "primary" vs. "non-primary" lines, provide total counts for residence local exchange lines and residential customers (unique residential billing addresses).

ATTACHMENT B

1 similarly vary from \$23.35 to \$31.35.⁹² It also offers basic and "premium" DSL
2 services for Internet access, although its pricing is not advertised on its website.

3 As these profiles illustrate, the many of the Oregon RLECs are by no means old-
4 fashioned "Mom and Pop" utilities struggling to provide basic local telephone service,
5 but instead are sophisticated telecommunications companies that have taken full
6 advantage of the existing federal and Oregon USF mechanisms to modernize their
7 networks and offer advanced broadband as well as basic telephone services.

8 **Q. HAS THIS ISSUE BEEN RAISED BEFORE IN THE CONTEXT OF OUSF**
9 **SUPPORT?**

10 A. Yes. Staff's comments in response to the issues list in the earlier phase of UM 1481
11 explained that "DSL revenues or revenues derived from providing internet services,"
12 should be used to reduce support if OUSF support remains directed at carriers.⁹³ Staff
13 also commented that "as a principle, a company's total communications earnings should
14 be considered when determining if a company needs support for serving a particular
15 geographic area."⁹⁴

16 **Q. HOW SHOULD THE COMMISSION ADJUST THE COST ESTIMATES FOR**
17 **NON-RURAL AND RURAL CARRIERS TO ENSURE THAT ONLY BASIC**
18 **SERVICE IS SUPPORTED AS INTENDED?**

19 A. The Commission should apportion the per line cost estimates between basic voice and
20 broadband services. As I said earlier, the networks operated by OUSF recipients are

⁹² Source: Attachment D to OTA Response to Verizon Data Request No. 3. The quoted rates exclude the Extended Area Service additive.

⁹³ UM 1481, *Staff's Comments*, October 25, 2010, at Issue 29.

⁹⁴ *Id.*, at Issue 38.

1 generally used to provide both basic (supported) services, as well as non-basic (non-
2 supported) services. This apportionment needs to be done in order to properly implement
3 the statutory formula for OUSF support, according to which the cost of only basic
4 telephone service be used when calculating support. I recommend an apportionment
5 method based on the relative prices (or average revenue per unit) of basic voice telephony
6 and broadband services adjusted for take rates of broadband services (expressed as the
7 number of broadband subscribers per voice line). Here the calculation of the price or
8 average revenue per line for voice and broadband service should be based only on the
9 classes of customers supported by OUSF. The following hypothetical example illustrates
10 this method:

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Table 4.

Apportionment of the Cost Study Cost Per Line Between Voice and Broadband Services (Hypothetical Example)

Line	Measure	Value	Formula
L1	Average Cost per Line from the "Traditional" Cost Study	\$ 70.00	input
L2	Average Revenue per Unit -- Basic Voice Service	\$ 15.00	input
L3	Average Revenue per Unit -- Broadband Service	\$ 35.00	input
L4	Average Broadband Take Rate (% Voice Lines)	65%	input
<i>Apportionment Factors:</i>			
L5	Basic Voice	40%	$L2 / (L2 + L3 * L4)$
L6	Broadband	60%	$1 - L5$
L7	Average Cost per Line of Basic Voice Service	\$ 27.81	$L1 * L5$

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As shown in Table 4 above, the cost estimates based on the Synthesis Model or RLEC embedded cost studies is \$70 per line. The apportionment factor for Basic Voice service is 40%, which is derived from the assumed levels of the average revenue per unit ("ARPU") for basic voice (\$15) and broadband (\$35) services, as well as the broadband take rate (65%). Application of this apportionment factor to the cost estimate results in the cost of basic voice service at \$27.81 per line. Note that to the extent the benchmark remains to be based on cost, it will also decrease. For example, assuming that the same apportionment factor of 40% for Basic Voice applies to all wire centers, the average cost in the former Qwest and Verizon wire centers (the basis for the current benchmark) would go down by 40% --from \$21 to approximately \$8.

1 **Q. HOW SHOULD THE COMMISSION DETERMINE THE PARAMETERS OF**
2 **YOUR PROPOSED APPORTIONMENT OF COST – THE AVERAGE**
3 **REVENUE PER UNIT FOR VOICE AND BROADBAND SERVICES, AS WELL**
4 **AS BROADBAND TAKE RATES?**

5 A. I propose these parameters are determined for each ILEC territory using the ILEC data.
6 This approach would be competitively neutral and nondiscriminatory because it will take
7 account of potential differences in the customer base: For example, an ILEC with
8 predominantly elderly customer base may have lower broadband take rates, and/or may
9 be offering lower broadband prices, than an ILEC with a younger, more affluent
10 customer base. In this example the first ILEC would have a higher percentage of its
11 network cost apportioned to voice services compared to the second ILEC. However, the
12 Commission may instead choose the use of generic parameters – price and take rate
13 information meant to reflect the reasonably expected levels. The advantage of this
14 approach over the option of using ILEC-specific parameters is that the possibility of
15 gaming (manipulating rates to maximize OUSF draw) is minimized, and the fund levels
16 are more stable over time.

17 **Q. HAVE THE ILECS PROVIDED ANY DATA THAT CAN HELP THE**
18 **COMMISSION DETERMINE THE PARAMETERS OF YOUR PROPOSED**
19 **APPORTIONMENT OF COST?**

20 A. Oregon Annual Report Form O contains information on xDSL lines and gross revenue, as
21 well as switched access lines and revenue, that can help the Commission establish
22 parameters for my proposed apportionment. OCTA requested this information from the

1 ILECs, but the ILECs generally provided only a redacted version of Form O, in which
2 broadband information is not available.⁹⁵ Frontier was the only company that provided
3 the OCTA unredacted versions of its Form O.⁹⁶ Based on its 2011 Form O, Frontier's
4 monthly APRU on xDSL service was *** ___ *** per line per month,⁹⁷ and its monthly
5 ARPU for local exchange switched services was *** ___ ***,⁹⁸ including *** ___ *** for
6 residential lines and *** ___ *** for business lines.⁹⁹ Frontier's xDSL "take rate" (the
7 ratio of xDSL and local exchange switched lines) was *** ___ ***,¹⁰⁰ Based on these
8 data, Frontier's apportionment factor under my method would be *** ___ *** voice / ***
9 *** broadband.

10 More generally, I expect that if LEC-specific data are used to establish the apportionment
11 factors, the factors will vary significantly by ILEC. This expectation is based on my
12 observation that the ARPU for voice services (the data for which was not redacted in
13 other ILECs' Forms O provided to OCTA) vary significantly. For example,
14 CenturyLink's ARPU for local exchange switched services was *** ___ *** in 2011,¹⁰¹
15 which is lower than the above discussed Frontier's monthly ARPU for local exchange

⁹⁵ On November 14, 2012, OCTA filed motions to compel production of the requested information. On December 3, 2012, ALJ Arlow issued a Ruling denying the motions to compel. On December 10, 2012, OCTA and Commission Staff filed a Joint Request for Certification of the Ruling to the Commission.

⁹⁶ See attachments to Frontier Responses to OCTA Data Request No. 1.

⁹⁷ Calculated as annual Gross Oregon Billed xDSL revenue divided by xDSL lines and by 12 months, where the xDSL line counts and revenue are taken from Frontier's Form O provided as attachment to Frontier Responses to OCTA Data Request No. 1, confidential Table I1.

⁹⁸ Calculated as annual Gross Oregon Billed local exchange switched revenue divided by local exchange switched lines and by 12 months, where the line counts and revenue are taken from Frontier's Form O provided as attachment to Frontier Responses to OCTA Data Request No. 1, confidential Table G10.

⁹⁹ *Id.*

¹⁰⁰ Calculated as xDSL lines divided by local exchange switched lines, where the xDSL and switched line counts are taken from Frontier's Form O provided as attachment to Frontier Responses to OCTA Data Request No. 1, confidential Tables I1 and G10 (respectively).

¹⁰¹ Calculated as annual Gross Oregon Billed local exchange switched revenue divided by local exchange switched lines and by 12 months, where the line counts and revenue are taken from CenturyLink's Form O provided as attachment C to CenturyLink's Responses to OCTA Data Request No. 1, confidential Table G10.

1 switched services (**_ **). For Pine, monthly ARPU for local exchange switched
2 services was only **_ ** in 2011,¹⁰² and for Eagle, this measure was even lower at
3 **_ ** in 2011.¹⁰³

4 **Q. DO YOU HAVE AN ALTERNATIVE PROPOSAL FOR DEALING WITH THIS**
5 **ISSUE?**

6 A. Yes. Rather than apportioning cost between voice and broadband services, the
7 Commission could include a component in the benchmark rate that captures average
8 broadband service related revenues. I address this proposal in more detail below in
9 section III (c).

10 (ii) **The Commission Should Modify the Benchmark for Determining OUSF**
11 **Support.**

12 **Q. WHAT IS THE CURRENT BENCHMARK FOR THE OUSF AND HOW WAS**
13 **THE CURRENT BENCHMARK ESTABLISHED?**

14 A. The current benchmark is \$21.00 per line. It applies to all types of lines (residential and
15 business lines, and for both primary and secondary lines). The current benchmark is set
16 equal to the weighted average cost per line in the former Qwest and Verizon wire centers.
17 These wire center-level cost estimates were generated by the FCC's Synthesis Model
18 using inputs approved by the Commission in Order No. 00-312. The stipulation which

¹⁰² Calculated as annual Gross Oregon Billed local exchange switched revenue divided by local exchange switched lines and by 12 months, where the line counts and revenue are taken from Pine's Form O provided as attachment C to Pine's Responses to OCTA Data Request No. 1, confidential Table G10.

¹⁰³ Calculated as annual Gross Oregon Billed local exchange switched revenue divided by local exchange switched lines and by 12 months, where the line counts and revenue are taken from Eagle's Form O provided as attachment C to Eagle's Responses to OCTA Data Request No. 1, confidential Table G10.

1 added rural carriers to the OUSF adopted the same \$21.00 benchmark.¹⁰⁴ However, this
2 benchmark was not used when determining the current (2012) levels of rural OUSF
3 support. Instead, the parties to the stipulation that set the levels of the current support
4 agreed upon a benchmark of approximately \$30, which was the result of adjusting the
5 original benchmark for inflation.¹⁰⁵

6 **Q. DOES THE COMMISSION HAVE THE AUTHORITY TO ADJUST THE**
7 **BENCHMARK?**

8 A. Yes. ORS 759.425 states as follows:

9 The commission in its discretion shall periodically review the benchmark
10 and adjust it as necessary to reflect:

11 (A) Changes in competition in the telecommunications industry;

12 (B) Changes in federal universal service support; and

13 (C) Other relevant factors as determined by the commission.¹⁰⁶

14 **Q. PLEASE DESCRIBE THE MODIFICATIONS YOU PROPOSE TO THE**
15 **BENCHMARK.**

16 A. I propose four modifications to the benchmark. First, instead of using the current formula
17 “Benchmark = average cost,” the Commission should establish the benchmark as follows:

18 *Benchmark = average cost + two standard deviations above the average.*

19 Second, I propose that the benchmark for business lines consider additional revenue that
20 a business line generates compared to residential lines. Third, for areas served by
21 unsubsidized competitors, I propose to set a special benchmark so as to produce zero

¹⁰⁴ Order No. 03-082, p. 4.

¹⁰⁵ Order No. 12-204, pp. 3-4.

¹⁰⁶ ORS 759.425.3(b).

1 support for these areas. Fourth, as an alternative to my proposal to apportion the existing
2 cost estimates between voice and broadband services (services that share the same
3 network), I propose to include in the benchmark revenue associated with broadband and
4 other unsupported services that share telecommunications network with basic voice
5 service. At a high level, when taken together, my proposals create a benchmark
6 composed of two components – (1) cost component and (2) revenue component. I
7 explain these proposals in more detail below.

8 Note that in this section I do not incorporate any of my proposals regarding cost – for
9 example, when discussing the levels of the per line cost, I use existing cost estimates,
10 rather than cost estimates resulting from my proposal to apportion the existing cost
11 estimates between voice, and broadband and other unsupported services.

12 **Measure High Cost as Two Standard Deviation Above the Average**

13 **Q. PLEASE EXPLAIN YOUR PROPOSAL TO USE STANDARD DEVIATIONS**
14 **WHEN CALCULATING THE BENCHMARK.**

15 A. The drawback of the current formula, which sets the benchmark equal to the weighted
16 average cost of the former Qwest and Verizon wire centers, is that it classifies as “in need
17 of support” too many wire centers. I illustrate this point by looking at the cost and line
18 count information used to derive the current benchmark and support levels for the former
19 Qwest and Verizon wire centers.¹⁰⁷ Out of the total 136 wire centers, 76% of wire
20 centers have cost per line exceeding the average cost of \$21 (the benchmark). Based on

¹⁰⁷ This information was provided in PUC Staff’s Data response to OCTA Data Request No. 1, which included the cost and line count information in Attachment A.

ATTACHMENT C

1 **Q. CAN YOU GIVE AN EXAMPLE OF A REASONABLE METHOD OF**
2 **ALLOCATING THE NETWORK COSTS BETWEEN BROADBAND**
3 **SERVICES AND BASIC LOCAL SERVICE?**

4 **A.** A simple method of allocating joint network cost among broadband services
5 and basic local service is to divide up the cost of the network equally among
6 the services. If there were three services being offered, then basic local service
7 would get one third of the cost.

8 **Q. WOULD YOU REDUCE THE COST BY FEDERAL SUPPORT BEFORE OR**
9 **AFTER DOING THE ALLOCATION TO SERVICES?**

10 **A.** The reduction should be done after the costs have been assigned to the
11 services. The federal support is intended to be used for basic local service, not
12 the broadband services.

13 **Q. ARE THERE BETTER WAYS OF ASSIGNING COST THEN YOUR SIMPLE**
14 **EXAMPLE?**

15 **A.** Yes. There are better ways of making the assignment of cost to the different
16 services. There are two ways that have been discussed at the national level.
17 First, the separations process could be enhanced. . Second, the so-called
18 “total company financial view” could be employed. However, enhancing the
19 separations process is outside of the scope this phase of the docket. The “total
20 company financial view” would require comparing all of the related revenue
21 streams with the cost to determine if there was a short fall that needed to be
22 covered by the OUSF.

1 **Q. DOES STAFF PLAN TO PROPOSE A WAY OF ALLOCATING COST TO**
2 **THE VARIOUS SERVICES THAT USE THE NETWORK WHEN**
3 **CALCULATING SUPPORT FOR THE COMPANIES?**

4 A. Yes. Staff's proposal will address how to incorporate the method discussed
5 above into the support calculation.

6 **Q. HAS THE BENCHMARK CHANGED SINCE IT WAS FIRST**
7 **CALCULATED?**

8 A. No, as mention in the discussion of how the support for rural companies is
9 calculated, it was noted that the benchmark has not changed since it was first
10 developed in 1999. During the most recent update of support for the rural
11 companies the \$21 benchmark was used to calculate the unadjusted support.
12 During negotiations, Staff used a \$30 benchmark to reduce the Rates coming
13 out of the separations model, but this did not involve a change in the
14 benchmark. The \$21 benchmark value was set in Docket UM 731, Order No.
15 00-312.³ The same value was subsequently adopted Docket UM 1017, Order
16 No. 03-082.⁴

17 **Q. ARE THERE ANY LEGAL RESTRICTIONS ON CHANGING THE**
18 **BENCHMARK?**

19 A. No. There are no legal restrictions on changing the benchmark. To the
20 contrary, Statute ORS 759.425(3) specifically allows the Commission to
21 change the benchmark as conditions change. The statute allows the

³ Docket UM731 Phase IV, Order No. 00-312, Issue 4, Pp 16-17,

⁴ Docket UM 1017, Order No. 03-082, Attachment A, p7.

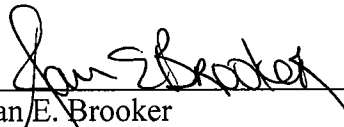
**CERTIFICATE OF SERVICE
UM 1481**

I hereby certify that on December 10, 2012, the foregoing **JOINT MOTION OF OCTA AND STAFF REQUESTING CERTIFICATION OF ALJ'S RULING TO THE COMMISSION** was sent by UPS Overnight Mail to the Oregon Public Utilities Commission, 550 Capitol Street NE, #215, Salem OR 97308-2148, emailed to puc.filingcenter@state.or.us, and served on the following persons by email:

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