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April 25, 2014

**VIA E-MAIL AND FED EX**

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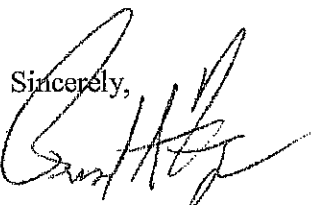
Re: Docket UM 1481 (Phase III) - Opening Testimony on Behalf of the Oregon  
Telecommunications Association

Dear Sir/Madam:

Pursuant to the request of Commission Staff, enclosed are the original and five copies of the revised Opening Testimony of Chad Duval and the revised Opening Testimony of Brant Wolf on behalf of the Oregon Telecommunications Association. The testimony is being refiled to address the required numbering sequence.

The Certificate of Service is also enclosed.

Thank you for your attention to this matter.

Sincerely,  


RICHARD A. FINNIGAN

RAF/cs  
Enclosures

cc: Service List (via e-mail)

CERTIFICATE OF SERVICE  
UM 1481

I certify that I sent the attached Opening Testimony of Chad Duval and the Opening Testimony of Brant Wolf on behalf of the Oregon Telecommunications Association by electronic mail and Federal Express to the following:

FILING CENTER  
PUBLIC UTILITY COMMISSION OF OREGON  
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I hereby certify that I served the attached Opening Testimony of Chad Duval and the Opening Testimony of Brant Wolf on behalf of the Oregon Telecommunications Association upon all parties of record in this proceeding by electronic mail, pursuant to OAR 860-013-0070, to the following parties or attorneys of parties:

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Dated at Olympia, WA this 25th day of April, 2014.

By: 

RICHARD A. FINNIGAN, OSB No. 965357  
Attorney for the Oregon Telecommunications  
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OTA/1600  
Wolf/1

BEFORE THE PUBLIC UTILITY COMMISSION  
OF OREGON

UM 1481 (Phase III)

In the Matter of

PUBLIC UTILITY COMMISSION OF  
OREGON

Staff investigation of the Oregon Universal  
Service Fund.

OREGON TELECOMMUNICATIONS  
ASSOCIATION TESTIMONY

**TESTIMONY OF**

**BRANT WOLF**

**April 24, 2014**

**Q. Please state your name and give us your business address for the record.**

A. My name is Brant Wolf. My business address is 777 13th Street SE, Suite 120, Salem, Oregon 97301.

**Q. By whom are you employed and in what capacity?**

A. I am Executive Vice President of the Oregon Telecommunications Association.

**Q. Please describe the Oregon Telecommunications Association.**

A. The Oregon Telecommunications Association or OTA represents a diverse set of telecommunications service providers. For the purposes of this testimony, those companies recognized as Incumbent Local Exchange Carriers (ILECs) providing telecommunications service in rural Oregon are represented.

**Q. What is the purpose of your testimony?**

A. I will address the public policy issues related to the idea of revising the network allocation methods currently in place. The technical issues of cost allocation methodologies will be addressed by other OTA witnesses.

**Q. What is OTA's position on the policy issues in this Phase of UM 1481?**

A. As far as I am aware there have been no allegations of waste, fraud or abuse made in regard to

the current method of cost allocation of the Oregon Universal Service Fund (OUSF). The current method facilitates the capital investment necessary to ensure that telecommunications service comparable to those in urban areas are available in rural Oregon at reasonable and affordable rates.

Oregon law established the OUSF with the goal of ensuring that telecommunications service are available in rural area of Oregon at rates comparable to those found in urban areas. The OUSF has accomplished that very goal since its inception. Those OTA members represented by this testimony believe that altering the cost allocation methodology could result in sharp reductions of valid OUSF support. As a result, serious and sustained degradation of the telecommunications network in rural Oregon would result if the cost allocation methodology is changed.

OTA believes that resulting degradation is contrary to the goal of the establishing legislation and is not in the public interest.

- Q. Is there any danger to public policy goals if changes in allocation methods are made?**
- A. The OTA's ILEC members have made capital investment in networks that fulfill the goal of the OUSF. Future investment in these networks would be jeopardized if a reduction of OUSF support is the intended or unintended result of this proceeding.



**Q. Why would a change in allocation methodology result in a reduction of OUSF support?**

A. First, that is the clear goal of the advocates for a change. As I understand it, one alternative method of cost allocation would work something like this: network investment would be supported based on what the network is being used for. In other words if a person used the network to access the internet and additionally for simple plain old telephone service (POTS), then part of the network would not be supported. As pointed out by Mr. Duval, these are both regulated services. However, under the proposal support would be reduced. Importantly, the scenario created by the proposed change ignores the carrier of last resort (COLR) obligations of the ILEC.

**Q. Please explain COLR.**

A. The COLR obligation is not meant to ensure degraded, shoddy service is available in rural Oregon in perpetuity. It is meant to ensure that all Oregonians have the ability to access emergency services, government services, etc. and just plain communicate with one another in such a manner as to comply with OPUC service and quality standards. Diminished OUSF support as a result of this proceeding would only hamper COLR and is not in the public interest.

Furthermore, the COLR obligation exists and should continue to exist regardless of whether or not the current occupant of a residence or business avail themselves of a particular service.

Circumstances change and occupants of homes and businesses also change. What COLR service prior occupants did not use should not preclude future occupants from using. In other words,

with a communications network that is built to serve everyone, the fact that one customer uses the network for broadband access does not mean that the next resident in that location would not use the very same network for telecom, not broadband. The network has to be there and support should not be dependent on the type of use of that network. Allowing this scenario would not only harm rural property values but potentially pose real danger to future homeowners.

The OUSF is critical to ensuring the COLR obligations continue to be met in rural Oregon and any attempt to change current cost allocation methods that results in loss of support should not be undertaken.

**Q. Do the proponents of a change have COLR obligations?**

A. No. That is the irony. Their interest is to see that the OUSF is as small as possible. They have no interest on seeing that the goals of maintaining COLR and advancing access to broadband are attained in rural Oregon.

The OTA believes it is important to point out that with only one exception, no party to this proceeding other than ILECs have any COLR obligations and only a few others have any service quality regulations. This is true even though all parties could become certified eligible telecommunications carriers (ETC), receive OUSF support and take on COLR in rural Oregon. It is our belief this simple fact exposes the true motivation of certain parties: to cause the OUSF to

be reduced to the point where it no longer provides support sufficient enough to satisfy ILEC regulatory obligations; obligations other parties do not share.

**Q. Do you have an example of how the current support allocation method fulfills the public interest?**

A. One example of the benefit of a sufficiently funded OUSF is the build out of facilities to the Oregon Museum of Science and Industry (OMSI) near Antelope, Oregon. The area is quite remote and difficult to serve. OMSI approached Trans-Cascades Telephone to provide service and Trans-Cascades Telephone responded by deploying fiber to the site. There had been telecommunications service from another provider but it was inferior and all indications were that no upgrades were forthcoming.

The facilities that Trans-Cascades Telephone deployed to OMSI are capable of both POTS and broadband access. Trans-Cascades Telephone has no interest in the particular services OMSI subscribes, to but the network is able to support both voice and access to broadband. If, through a newly adopted cost allocation method, the OPUC determines that only a portion of the new facilities will receive support, then Trans-Cascades Telephone will not be able to maintain the new facilities and certainly won't be able to deploy similar facilities in the area if needed.

Additionally, it is safe to say that Trans-Cascades Telephone would not have made the decision to deploy facilities if the cost allocation methodology had penalized it for having done so or

forced it to make an investment in facilities that support one service only. The OTA sees this as the natural outcome of adopting a cost allocation methodology that determines support based strictly on what the facilities are being used for in a specific moment in time. This outcome is not in the public interest and we urge the OPUC not to alter the current cost allocation methodology absent an overriding public need to do so.

**Q. Does that conclude your opening testimony?**

A. Yes.

OTA/1700  
Duval/1

BEFORE THE PUBLIC UTILITY COMMISSION  
OF OREGON

UM 1481 (Phase III)

In the Matter of

PUBLIC UTILITY COMMISSION OF  
OREGON

Staff investigation of the Oregon Universal  
Service Fund.

OREGON TELECOMMUNICATIONS

ASSOCIATION TESTIMONY

**OPENING TESTIMONY OF**

**CHAD DUVAL**

**April 24, 2014**

**Q. What are your name, title, and business address?**

A. My name is Chad A. Duval. I am a Principal at Moss Adams LLP (Moss Adams), an accounting and business consulting firm. My business address is 3121 W. March Lane, Suite 100, Stockton, CA, 95219.

**Q. Please describe your educational background and experience.**

A. My educational background includes a Bachelor of Science degree in Business Administration, with an emphasis in Statistics, from the University of Denver, in Denver, Colorado. In 1995, I was hired by GVNW Inc./Management to serve as a Consulting Analyst in the Company's Colorado Springs office. In 1998, I was promoted to Management Consultant. In 1999, I accepted the position of Manager of Strategic Pricing with US WEST Communications in Denver, Colorado. In January of 2000, I was promoted to Group Manager of Strategic Pricing. In October of 2000, I accepted the position of Director of Product Management with Vanion, Inc., a competitive local exchange carrier headquartered in Colorado Springs, Colorado. In September of 2001, I accepted the position of Senior Consultant with GVNW in Colorado Springs, Colorado. In October of 2004, I accepted the position of Senior Manager with Moss Adams in Stockton, California. In October of 2007, I became a Principal at Moss Adams in that office.

**Q. Can you please describe your duties and responsibilities as a Principal at Moss Adams?**

A. Moss Adams is a regional accounting and consulting firm with offices in major cities in the states of Arizona, California, Kansas, New Mexico, Oregon, and Washington. Moss

Adams' Telecommunications Industry Group provides audit, tax, and financial and management consulting services to the telecommunications industry, particularly to rural telecommunications carriers. I am the firm-wide leader of our telecommunications consulting practice. In that role I provide technical and strategic guidance to a team of approximately 20 consultants. In addition, I provide consulting services to companies in several states, including cost separation studies, business plans, budgets, depreciation studies, and management analysis on various regulatory and business issues.

**Q. For whom are you appearing in this proceeding?**

A. I am appearing on behalf of the rural incumbent local exchange carrier ("rural ILEC") members of the Oregon Telecommunications Association ("OTA" or "the Association").<sup>1</sup>

**Q. Have you ever testified before the Oregon Public Utility Commission or any other regulatory agency?**

A. Yes. I filed testimony in Phase II of this proceeding (UM 1481) on behalf of the rural ILEC members of the OTA. That matter was settled prior to hearing. In addition, I have testified before the California Public Utilities Commission, the Colorado Public Utilities Commission, the Georgia Public Service Commission, the Public Utilities Commission of Nevada, the North Dakota Public Service Commission, the Public Service Commission of Utah, and the Wyoming Public Service Commission.

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<sup>1</sup> Frontier Communications, Inc. and CenturyLink, Inc. are both members of the Oregon Telecommunications Association, but are participating separately in this proceeding.

**Q. What is the purpose of your testimony?**

A. In this testimony, I will address whether there is a need to perform cost allocations to assign a portion of the local loop to the provision of broadband services, effectively removing these costs from consideration in the determination of Oregon Universal Service Funding ("OUSF") for the rural ILECs.

**Q. Can you define broadband in the context that you will use it in this testimony?**

A. Yes, I generally define broadband as the transmission service that enables an end user customer to access high speed data services, which is the same service that the FCC refers to as Wireline Broadband Internet Access ("WBIA"). This service is provided by the rural LECs using either DSL or fiber to the premises facilities.<sup>2</sup> WBIA is an interstate service regulated by the FCC, which is usually offered by rural LECs on a common carrier basis either via an interstate tariff or on a permissively detariffed basis with generally available terms and conditions.<sup>3</sup> WBIA is offered on a wholesale basis, which allows third parties to combine the DSL or fiber transmission component with their own high speed data services, such as Internet access or IPTV, to provide retail services. The retail high speed data services offered by these third parties are provided to end user customers on a non-regulated basis. My definition of broadband does not include high speed data service, as the FCC does not include that service in the definition of WBIA.

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<sup>2</sup> WBIA via DSL and fiber to the premises are included in NECA Tariff FCC No. 5 as "DSL."

<sup>3</sup> *Report and Order and Notice of Proposed Rulemaking* in CC Docket No. 02-33, CC Docket No. 01-337, CC Docket Nos. 95-20, 98-10, WC Docket No. 04-242, and WC Docket No. 05-271, released September 23, 2005 (*Wideband Internet Access Order*) at Paragraph 138.



**Q. Are the rural ILECs subject to any existing cost allocation procedures?**

A. Yes. The Oregon rural ILECs are subject to the Federal Communications Commission's ("FCC") accounting, cost allocation, cost separations, and cost recovery rules. For the most part the Oregon Public Utilities Commission ("OPUC") follows these same rules in the regulation of intrastate services. These rules establish procedures that regulated telecommunications carriers must follow for cost accounting and regulatory reporting purposes.

The FCC's accounting rules are found in Title 47 of the Code of Federal Regulations, Part 32 ("Part 32"). Part 32 outlines the uniform system of accounts and affiliate transaction rules for regulated telecommunications carriers. The uniform system of accounts defines the series of accounts into which regulated carriers must record their assets, liabilities, revenues and expenses. Part 32 includes both regulated and non-regulated accounts, which may be used by regulated entities that also provide non-regulated services. Only the regulated accounts are included in the cost allocation, cost separation and cost recovery processes. The affiliate transaction rules included in Part 32 require that regulated entities charge their non-regulated affiliates tariff rates for tariffed products and services and the greater of fully distributed cost and market rates for non-tariffed products and services.

The FCC's cost allocation rules are found in Title 47 of the Code of Federal Regulations, Part 64 ("Part 64"). Part 64 outlines the requirement to allocate costs, including assets, liabilities and expenses, between regulated and non-regulated activities. It also provides general cost allocation procedures that must be followed, but stops short of prescribing any specific cost allocation methodologies. The FCC has shown a preference for allowing individual carriers to determine the precise cost allocation

methodologies that they will use, so long as they conform with the general procedures outlined in Part 64.

The FCC's cost separations rules are found in Title 47 of the Code of Federal Regulations, Part 36 ("Part 36"). Part 36 outlines the procedures that must be followed in separating regulated costs between the interstate and intrastate jurisdictions. Costs assigned to the interstate jurisdiction are regulated by the FCC, while costs assigned to the intrastate jurisdiction are regulated by the state public utilities commissions, including the OPUC. Only regulated costs that flow out of the Part 64 cost allocation process are subject to jurisdictional separation under Part 36.

The FCC's cost recovery rules for rate of return regulated carriers are found in a variety of places, including Title 47 of the Code of Federal Regulations, Parts 36, 54 ("Part 54") and 69 ("Part 69"). Part 36 provides the calculation of Federal High Cost Loop Support ("HCLS"). Part 54 provides for support under Interstate Common Line Support ("ICLS") and Connect America Fund Inter-carrier Compensation Support ("CAF ICC"). Part 69 provides for the assignment of costs to a variety of rate elements, including: Local Switching, Transport, Carrier Common Line, and Special Access.<sup>4</sup> For intrastate services, including in Oregon, Part 69 is also used to assign costs to rate elements for intrastate cost recovery, including: Switched Access, Carrier Common Line, Special Access, Local, Extended Area Service ("EAS") and Billing and Collection. Each of these rate elements has a tariffed rate or rates that is charged to end user and access customers and is designed to recover all or part<sup>5</sup> of the costs assigned to it. Part 69 cost

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<sup>4</sup> The Special Access rate element includes the costs associated with the provision of Digital Subscriber Line ("DSL") transmission service.

<sup>5</sup> In the case of the Carrier Common Line rate element, only a portion of the costs assigned to it are recovered through the tariffed End User Common Line charge, also commonly referred to as the Subscriber Line Charge. The remainder of the costs assigned to the Carrier Common Line rate element are recovered through ICLS.

recovery is only designed to recover the costs associated with the provision of regulated services.

**Q. Are Internet access and IPTV regulated or non-regulated services?**

A. Internet access and IPTV are non-regulated services, both of which may utilize regulated DSL or fiber transmission to connect to the end user customer.

**Q. How do the accounting, cost allocation, cost separations, and cost recovery procedures that you described above assign costs to the provision of DSL transmission service<sup>6</sup>?**

A. DSL costs are assigned to regulated accounts using the FCC's Part 32, Uniform System of Accounts. To the extent that DSL costs are shared with other services, they are allocated between regulated and non-regulated accounts using the principles outlined in the FCC's Part 64 cost allocation rules; all shared costs that are determined to be associated with DSL are assigned to the regulated accounts. The regulated DSL costs are then directly assigned to the interstate jurisdiction in the Part 36 cost separations process. These DSL costs are then recovered through tariffed or de-tariffed, but still regulated, interstate rates.

**Q. How do the accounting, cost allocation, cost separations, and cost recovery procedures that you described above assign costs to the provision of Internet access and IPTV?**

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<sup>6</sup> In the National Exchange Carrier FCC Tariff No. 5, DSL transmission service includes DSL and DSL-like services provided over both copper and fiber facilities. From here forward, I will refer to both copper and fiber based services as DSL transmission service, or more simply DSL.

- A. Internet access and IPTV are non-regulated services. To the extent that any of the costs associated with these services are included in the regulated Part 32 accounts, they are allocated to non-regulated accounts in the Part 64 cost allocation process; where costs that are shared with regulated services are allocated based on the relative use principles outlined in Part 64. None of the costs of providing Internet access or IPTV are included in the Part 36 cost separations, Part 54 Universal Service and Part 69 cost recovery processes.
- Q. Are there any costs associated with the provision of DSL transmission service that are not directly assigned to the interstate jurisdiction and recovered through tariffed, or permissibly detariffed, DSL rates?**
- A. The only cost associated with the provision of DSL transmission service that is not directly assigned to the interstate jurisdiction and recovered through tariffed, or permissibly detariffed, DSL rates is the cost of local loop cable and wire facilities, either copper or fiber, that connect the end user to the access service connection point with the non-regulated provider of high speed data services. The FCC opted not to assign any of these local loop cable and wire facility costs to DSL transmission service because it already provides recovery for these costs through other mechanisms, including HCLS and ICLS.
- Q. Of the local loop costs that are not directly assigned to the interstate jurisdiction, what percentage is allocated to the interstate jurisdiction?**
- A. Pursuant to 47 C.F.R. Part 36.154(c), 25% of local loop costs are assigned to the interstate jurisdiction and the remaining 75% is assigned to the intrastate jurisdiction.

This allocation factor is the FCC's "Gross Allocator" or what is commonly referred to the as the "Subscriber Plant Factor" ("SPF"). The 25% assigned to the interstate jurisdiction makes up the Common Line revenue requirement.

**Q. Of the FCC cost recovery mechanisms identified in Parts 36, 54 and 69 that you outlined above, which ones are designed to recover the cost of the local loop cable and wire facilities?**

A. There are three primary FCC cost recovery mechanisms that are designed to recover the cost of local loop cable and wire facilities. The first, which is outlined in Part 69 of the FCC's rules, is the Federal Subscriber Line Charge ("SLC"). The SLC is assessed on all residential and business customers that subscribe to voice services. This is a federally tariffed charge that is designed to recover a portion of the 25% of local loop costs that are assigned to the interstate jurisdiction using the SPF. The second FCC cost recovery mechanism is ICLS which supports the entire difference between the local loop costs assigned to interstate and the revenues generated by the SLC. The combination of the SLC and ICLS make up the entirety of the interstate Common Line revenue requirement.

The third FCC cost recovery mechanism is HCLS, a universal service funding mechanism, which supports the 75% of the cost of the local loop that is assigned to the intrastate jurisdiction via the SPF. HCLS is designed to support local loop costs that exceed 115% of the national average cost per loop. Each of the rural ILECs that are participating in this proceeding is eligible to receive HCLS. This federal support is included in the determination of OUSF funding that each of the rural ILECs receives, which ensures that companies do not recover more than their actual cost of providing the local loop.

**Q. Have you recently testified in any other proceedings that addressed rural ILEC cost allocations for the provision of broadband services over the local loop?**

A. Yes, I provided testimony on behalf of Public Service Telephone Company before the Georgia Public Service Commission that addressed the allocation of local loop costs to the provision of broadband.

**Q. What was the outcome of the proceeding in Georgia?**

A. The outcome of the proceeding in Georgia is still pending, but the Staff of the Georgia Public Service Commission submitted a memorandum to the Commission recommending that:

*“(1) The record does not support a finding that the existing cost allocation methodologies result either in unlawful cross-subsidization or in the operation of the UAF in a manner that is not competitively neutral between competing telecommunications providers.*

*(2) The legal arguments presented do not demonstrate that the Commission has the authority to modify the federal cost allocation percentages between interstate and state costs.*

*(3) Assuming arguendo that this Commission has the authority to modify the cost allocation percentages contained in the federal rules, the record indicates that doing so would be a lengthy and difficult process, and that having a separate cost allocation method specific to Georgia would likely increase the costs to the UAF applicants. Such increased costs may result in a larger demand on the UAF. In addition, any benefits from the development of a state-specific cost allocation methodology may be compromised or lost depending on any action taken by the FCC.”<sup>7</sup>*

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<sup>7</sup> Memorandum To: All Commissioners, From: Dan Walsh, Senior Assistant Attorney General, Department of Law and Patrick Reinhardt, Public Utilities Engineer, Telecommunications Unit, Date: February 24, 2014, RE: Docket No. 35068: Rate Case Proceedings for Track 2 Companies.

The Georgia Public Service Commission recently adopted this recommendation at its April public meeting, but has yet to issue an order in this proceeding.

**Q. Do you recommend that the Commission allocate any of the cost of the local loop to non-regulated for the provision of broadband?**

A. No. For the reasons I outlined above, there is no need to allocate any of the costs of the local loop to broadband. The FCC has deemed the transmission component of WBIA to be an interstate regulated service and provides for cost recovery of the costs assigned to this service. Any costs associated with the high speed data service that is offered on a retail basis to end users has already been removed from the regulated costs, so there is no additional allocation necessary.

**Q. Does this conclude your opening testimony?**

A. Yes