

# WARM SPRINGS TELECOMMUNICATIONS COMPANY



WARM SPRINGS TELECOM

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January 30, 2013

**RE: Docket UM 1481**  
**Reply Testimony of Jeffrey E. Anspach**

Attention Filing Center,

Enclosed for filing in the above mentioned docket are an original and two copies of the Reply Testimony and Exhibits of Jeffrey E. Anspach, CEO of Warm Springs Telecom. A copy of this filing has been served on all parties to this proceeding as indicated on the enclosed service list.

Please contact me at (503) 997-1685 if you have any additional questions.

Sincerely,

*Marsha Spellman*

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**Q. PLEASE STATE YOUR NAME, OCCUPATION, AND BUSINESS ADDRESS.**

A. My name is Jeffrey E. Anspach. I am CEO of Warm Springs Telecommunications Company. My business address is 4202 Holliday, Warm Springs, Oregon 97761

**Q. HAVE YOU FILED TESTIMONY PREVIOUSLY IN THIS CASE?**

A. Yes. I originally filed testimony in the opening filing for this stage of the proceeding. This is my response to the testimony filed by others.

**Q. WHAT IS THE PURPOSE OF YOUR TESTIMONY?**

I want to reiterate my support for the continuation of the Oregon Universal Service Fund. Its continuation is critical to bringing telecommunications services to the people of the Confederated Tribes of Warm Springs Reservation, and I believe, to other rural residents of Oregon.

As stated in my previous testimony, Warm Springs Telecom is a new company that was formed to serve the residents of the Reservation of the Confederated Tribes of Warm Springs in central Oregon. We were not able to buy the local exchange, so we formed as a CLEC and received our Eligible

Telecommunications Carrier (ETC) designation. With this ETC, we are eligible for Lifeline and OUS.

Last January 2012, we had our grand opening. After a year of operations we now serve about 400 lines receiving Oregon Universal Service. In addition it is of note that up to 85% of our customers are eligible and receive Tribal Lifeline service, a federal funding program. A vast majority of these customers have telecommunications services for the first time.

While we do not have a Carrier of Last Resort (COLR) obligation, we formed this company to serve the entire reservation and we have made a commitment to Tribal Council that we will serve everyone on the reservation who wants to take our service, no matter their location. We have taken upon ourselves to be the Carrier of Last Resort for the Tribes of Warm Springs.

As Warm Springs is one of the highest cost area to serve in Oregon, this commitment is expensive. For us to bring the type of telecommunications service - basic telephone and Broadband - that others in Oregon take for granted, we must continue to receive Oregon Universal Service. As there are some that believe everyone in Oregon has service and the need for the OUSF no longer exists, I want to emphasize that this is NOT the case for the Warm

Springs Reservation. As we have seen in Warm Springs, this is still a critical fund that must be maintained to continue to bring service to the un-served and underserved areas of Oregon. The funding must continue for the Warm Springs Telecommunications Company, even as a CLEC, as we are assuming COLR obligations out of necessity as no company has ever served the entire population, even with a COLR obligation.

It is with this perspective that I want to respond to three issues that have been raised in prior testimony by a number of respondents.

- A. There are still areas in Oregon, including Warm Springs, which do not have telecommunications services and have limited advanced services. They also don't have the type of "robust" competition indicated by a number of respondents. (Verizon/100, Price/4)
- B. I believe that the purpose of the OUSF, as indicated by commenters, "to ensure basic telephone service is available at a reasonable and affordable rate," (OCTA 100/Ankum /4&8) is still relevant and important for numerous areas in Oregon. While technology has changed, the purpose for the fund still exists.

C. Commenters also have indicated that the fund as it exists now conflicts with the changing federal rules under the new USF/CAF regulations. I don't believe this to be the case. In fact, under ORS 759.425, the "Public Utility Commission may adopt rules to conform the universal service fund to section 254 of the federal Telecommunications Act of 1996 (Public Law 104-104), *and to related rules adopted by the Federal Communications Commission.*"

**Q. COULD YOU PLEASE EXPAND ON THESE ISSUES?**

A. There are still those living in areas in Oregon, including some living on the Warm Springs Reservation, that do not have basic telecommunications services nor do they have the type of "robust" competition as indicated by a number of respondents.

As we explained, Warm Springs Telecom (WST), while a CLEC at this time, was created not to compete with areas that have service, but to serve those areas that are underserved or have no service at all. Even in areas on the Reservation where there was service, basic products such as voice mail, were not available to most people. WST's initial network development was funded through a 50% grant/ 50% loan from the

Federal ARRA broadband program. However, there is still a great deal of work and further investment required to build-out our network throughout the Reservation and to ensure that service is available to all Reservations residents. This will only be possible with continued support from OUS funding.

Verizon argued in their comments that “robust competition has helped ensure that affordable telephone service is available throughout the state...fulfilling the essential goal of the OUSF...” (Verizon/100 Price/4) In addition, the company commented that “Oregon has a “vibrant competitive market in which consumers have numerous choices of communications services and technology.” (Price/6) While most urban areas in Oregon may be full of competitive providers, this is not the case throughout rural Oregon, particularly for the Warm Springs Reservation.

On the Warm Springs Reservation, there are three main population centers that roughly relate to the three Tribes of the confederation. The town of Warm Springs is the district of the Wasco Tribe. Simnasho, located in the northern portion of the reservation, is the district of the Warm Springs Tribe, and Seekseequa, in the southwest corner of the reservation is the district of the Paiute Tribe. These areas are the main population centers, yet both the Simnasho and Seekseequa communities are very remote, even compared to Oregon rural standards.

Both of these communities have very low housing densities, making additional capital investment not economically feasible for telecommunications companies whose primary focus is on customary payback justifications. Even in the central area of Warm Springs, until the creation of WST, there were many residents without basic telephone service. Also, while many residents have cell phones, to use while traveling or in the center of Warm Springs, few have cell service in their homes and coverage on the reservation is inadequate. This is despite the claim that “very few Oregonians actually live in areas without wireless service.” (Verizon/100, Price 16.)

Competition in Warm Springs is extremely limited. Only in the Warm Springs agency area does anything that could remotely be called competition exist. There are still many more areas with no telecommunications service at all. There is no “robust” competition on the reservation. While Verizon argues that “wireless coverage is pervasive,” (Verizon/100, Price 16) I invite you to drive through the Warm Springs Reservation.

Many non-tribal people experience this lack of service as they travel through the reservation on Highway 26, where people lose cell service for up to an hour. For most people transiting through the reservation, this is just an inconvenience. But for the Tribes, there are many tribal residents that live in these areas and their lives are at risk

without an effective way to reach public safety agencies during emergencies. We have asked for companies to come and expand mobile service to these areas, but we have had little positive response to date; we suspect that the cell carriers face the same density challenges as I mentioned previously.

To be fair, we have had some expansion of service. When Verizon bought UniceL and had to put in new service since the UniceL technology would not work with the Verizon phones. Verizon put in a new cell site at the Kah Nee Ta Resort and a new cell tower at Eagle Butte along with their new equipment. These installations have improved service in the center of the Reservation. However, since then, there has been no additional improvement of cell service by any company, to reach out to the large expanse of the reservation especially for the communities in Simnasho and Seekseequa. I think it is easy for those who don't serve the rural areas to argue that there is full competition. This may be true in urban and suburban Oregon, but not so in rural Oregon.

- B. The purpose of the OUSF, "to ensure basic telephone service is available at a reasonable and affordable rate," is still relevant and important for Oregon. While



he market has changed, and new technology is being deployed, the purpose for the fund still exists.

Both Verizon and OCTA claim in their comments that the need for the OUSF is not necessary, that the reason for this fund has served its purpose and it is now time to consider ending the funding the OUSF. (Verizon/100,Price/4) OCTA argues that the OUSF is “growing to compensate rural LECs for the loss of lines to competitive forces.” (OCTA/100 Ankum 19). Verizon claims that the “competitive market has developed with virtually no funding from the OUSF.” (Verizon 100, Price 4).

Like Verizon, OCTA also argues that with competition throughout the State, the OUSF should be eliminated, or at least, significantly reduced. They go argue that in addition, rural areas “have access to fiber to the home not available to non-rural competitors.” (OCTA 100/Ankum 4) The problem with blanket statements like this is that while there certainly are rural areas with fiber to the home, it implies that it is the case in all of Oregon. This is definitely not the case in Warm Springs and many other areas in rural Oregon. Again, I think it is easy for those who don't serve the rural areas to argue that there is full competition. This may be true in urban and suburban Oregon, but not in rural Oregon. If we, as a State, are truly vested in bringing telecommunications to all its citizens then we cannot rely on generalized statements

that imply the job is done. For those of us in rural areas, lack of telecommunications infrastructure is a very real impediment for economic development, health care, education and safety advancements.

Furthermore, basic telecommunications networks are constructed as the underlying transport for the mobile networks to build out their facilities. Verizon (Verizon 100/Price/2) has argued that the competitive companies have thrived without any universal service funding. While it might be true that they have not gotten direct funding, these companies have only been able to build out their networks because the Public Switched Telephone Network (PSTN) has been built throughout America with the help of Universal Service Funding (both Federal and State). Putting a tower in the middle of Warm Springs, for instance, is possible only if telecommunications infrastructure exists to provide these companies with underlying networks to connect towers. They are using the very networks that they now argue against the continuation of funding.

One further comment. In my opening remarks I mentioned that we have assumed a "COLR obligation." While we support the comments of OTA, we beg to differ in their comment that only ILECs with COLR obligations should receive OUS funding. In our ETC application, we agreed to serve the entire Warm Springs wire center. We believe that any company that agrees to these obligations, including WST, should get this funding. While we agree with OTA that those companies that only exist to serve the low hanging fruit, should not receive OUSF. A company

that is building new networks that will agree to serve everyone should be able to participate in the fund.

C. Both Verizon and OCTA argue that to continue funding the OUSF conflicts with both State and Federal law. Verizon argues that, "Because the original purpose of the OUSF has been met, the program is obsolete, unnecessary and should be eliminated." We don't believe this to be true. (Verizon/100, Price/3)

According to the OCTA, OUSF- supports basic voice and broadband, "contrary to statutory intent." Verizon argues that OUSF rules are "Out of step with comprehensive universal service reforms adopted last year by the FCC. (Price/4) "We agree that the telecommunications industry has changed significantly and that as new networks are being built or rebuilt, the old copper facilities that had been the underlying network of the past are being replaced with new fiber plant. These networks are much more robust than the old copper plant, and that includes delivering broadband. However nowhere does this mean that because these networks are broadband capable, that this, is "contrary to statutory intent."

In fact, ORS 759.425 say that "the commission in its discretion shall periodically review the benchmark and adjust it as necessary to reflect:

- Changes in competition in the telecommunications industry;
- Changes in federal universal service support; and
- Other relevant factors as determined by the commission.”

These rules seem to indicate that the OUSF is a fund that can change as the nature of the industry changes. None of these rules indicate the purpose of the fund is dead as networks that are broadband capable are being built out in Oregon. Change seems to be embraced by these rules.

In addition, although Verizon argues that “OUSF is out of step with FCC,” (Verizon/100,Price/4) under ORS 759.425, the “ Public Utility Commission may adopt rules to conform the universal service fund to section 254 of the federal Telecommunications Act of 1996 (Public Law 104-104), and *to related rules adopted by the Federal Communications Commission.*” The FCC recently released new regulations changing the federal Universal Service Fund to create a new Connect America Fund. This new rule covers many issues, but it appears that nothing in the new USF/CAF rules points to the elimination of the OUS.

The FCC’s new USF reform regulation includes:

1. Preserving and advancing universal availability of voice service

2. Ensuring universal availability of modern networks capable of providing voice and broadband service to homes, businesses and community anchor institutions
3. Ensuring universal availability of modern networks capable of providing advanced mobile voice and broadband service.

As we have read the new FCC regulations, we don't believe the OUSF contradicts these new rules. In fact, the Oregon PUC regulation ORS 759.425 implicitly says that it "may adopt rules to conform the universal service fund" to FCC Section 254, which in part covers the issues related to Universal Service.

**Q. IS THERE ANYTHING ELSE YOU WOULD LIKE TO ADD?**

When I first came to Warm Springs from Portland back in the fall of 2005 I could not believe that the people of Warm Springs were at such a distinct disadvantage when it came to telecommunications infrastructure than their urban counterparts. This disadvantage manifests itself in many ways that can be seen in just about every metric that the State uses to measure the health of a society. This is not just true for Warm Springs but also for rural areas left on the wrong side of the digital divide. Thanks in large part to the OUS funding we've made great strides since then in connecting the

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people of Warm Springs but there is still much to do. The OUS fund is of critical importance in allowing the Warm Springs community to catch up with its urban neighbors and level the playing field.

As telecommunications continues to grow in importance the disparity between the urban and rural areas of the State will only grow wider without OUS support. That would neither serve Warm Springs, other rural and small communities and the State in general.

**Q. DOES THIS CONCLUDE YOUR TESTIMONY?**

A. Yes. Thank you very much for this opportunity.