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October 25, 2010

Attn: Filing Center
Public Utility Commission of Oregon
550 Capitol Street NE, #215
PO Box 2148
Salem, OR 97308-2148

Re: UM 1481 – AT&T Comments – Investigation into the Oregon Universal Service Fund

Enclosed are AT&T Comments in the above-mentioned case.

If you have any questions, please do not hesitate to contact me.

Sincerely,

David Collier
Area Manager - Regulatory

CERTIFICATE OF SERVICE

UM 1481

I hereby certify that on the 25th day of October, 2010, I served the foregoing Comments by AT&T in the above entitled docket on the following persons via U.S. Mail, by mailing a correct copy to them in a sealed envelope, with postage prepaid, addressed to them at the address shown below, or via email only if the service list indicates such persons waive paper service.

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(W) = Waive Paper Service

DATED this 25th day of October, 2010

AT&T

By: *[signature]*

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BEFORE THE PUBLIC UTILITIES COMMISSION OF OREGON

UM 1481

In the Matter of	)	
	)	**COMMENTS BY AT&T**
PUBLIC UTILITY COMMISSION OF OREGON	)	
	)	
Staff Investigation of the Oregon Universal Service Fund	)	

AT&T Communications of the Pacific Northwest, Inc., TCG Joint Venture Holdings, Inc. dba TCG Oregon, and New Cingular Wireless PCS, LLC (collectively "AT&T") appreciate the opportunity to submit these comments. AT&T commends the Public Utility Commission of Oregon ("Commission") for undertaking this investigation into the Oregon Universal Service Fund ("OUSF") especially in light of the changes in technology and the industry that have occurred since the fund was created. In these comments, AT&T first provides its recommendation on the two central issues initially posed by staff in its recommendation to open this docket: 1) whether the OUSF should support broadband; and, 2) whether reform of the OUSF requires intrastate access charges to be rebalanced. AT&T will then respond to a number of the questions from the Consolidated Issues List.

I. <u>Summary of AT&T's Recommendation for Reform of the OUSF:</u>

AT&T believes that in order to ensure a smooth transition to an all-broadband world the OUSF must be reformed in two steps. These two steps will encourage the deployment of broadband networks in Oregon while at the same time taking into account changes that will occur to the federal universal service high-cost funds.

Step 1: Oregon should immediately move to stabilize local exchange service providers' revenue streams to facilitate the transition to broadband. Specifically, Oregon should reform intrastate switched access rates to mirror interstate switched access rates and rate structure, and ensure that ILECs required to implement such changes have an appropriate alternate recovery mechanism.

Step 2: Transition the OUSF to a broadband fund, if additional state support is needed. As described in more detail below, the transition of the OUSF to a broadband fund should only occur after the Federal Communications Commission ("FCC") has established its rules for the Connect America Fund ("CAF"). This will ensure that actions taken by Oregon compliment and capitalize on those actions that occur at the federal level. AT&T does not oppose the Commission receiving approval from the legislature to transition the OUSF to a broadband fund, but the implementation of such transition should be conditioned on the establishment of the CAF. Oregon will benefit from this approach as the OUSF, if still needed, will supplement funding that will be available at the federal level for broadband and will ensure that the OUSF is kept as small as possible.

II. Step 1 - Intrastate Access Reform Must Occur Immediately

A. Intrastate Access Revenues are Declining Rapidly

Historically, implicit access charges were set at artificially high, above-cost levels in order to promote universal service objectives by generating implicit subsidies that allowed local telephone service rates to be held at artificially low, below-cost levels. The National Broadband Plan ("NBP") describes that regime as follows:

> ...ICC [Intercarrier Compensation] was implemented before the advent of the Internet when were there separate local and long distance phone companies. Local companies

> incurred a traffic-sensitive cost to 'switch' or connect a call from the long distance company to the carrier's customer. The per-minute rates charged to the long distance carrier were set above cost and provided an implicit subsidy for local carriers to keep residential rates low and promote universal telephone service.[1]

This subsidy system has long been eroding and becoming unstable in the new communications world.

Access minutes are quickly decreasing as more and more consumers shift their usage away from traditional wireline long distance service to alternative providers to communicate, such as email, wireless phones, social networking websites, Voice over Internet Protocol (VoIP) providers like Vonage or Skype, and cable telephony, among other options. These alternate providers do not pay the same access charges as long distance providers, if they pay them at all.

The loss of access revenues for the ILECs threatens universal service and rural investment, which puts rural connectivity at risk. As consumers shift their calling away from traditional wireline telephone networks, the ILEC companies are strained to recover largely fixed costs from a shrinking customer base. The NBP observes that "fewer terminating minutes ultimately mean a smaller revenue base for intercarrier compensation…" [2] and that "rate of return carriers...acknowledge that the current system is 'not sustainable' and could lead to a 'death spiral' as higher rates to offset declining minutes exacerbate arbitrage and non-payment."[3]

The loss of switched access revenues is occurring nationally as well as in Oregon. According to FCC data, "total minutes of use of incumbent carriers decreased from 567 billion minutes in 2000 to 316 billion minutes in 2008, a drop of 56%."[4] Further, according to FCC

[1] *Connecting America: The National Broadband Plan,* pg. 142.
[2] NBP, pg 142.
[3] NBP, pg 142.
[4] NBP, pg 142.

data, total interstate minutes of use of incumbent Oregon carriers decreased from 7.508 billion minutes in 2000 to 3.231 billion minutes in 2009, a drop of 57%.

The legacy plain old telephone service ("POTS") business model, under which local exchange carriers provide basic local exchange service combined with interexchange access to long distance services is dying and taking with it the complex patchwork of implicit subsidies on which local exchange carriers rely to sustain and upgrade their networks.

B. Intrastate Switched Access Reform Will Lay the Foundation for Transition to Broadband and Provide Numerous Benefits to Consumers in Oregon

A necessary first step to laying the foundation for a transition to an all-broadband world is for Oregon to engage in the simple and straightforward step of intrastate switched access reform. Such reform will benefit consumers in the state by providing for advanced communication while at the same time lowering consumers' long distance costs.

Indeed the NBP invites states to take straightforward action, "[t]he FCC should also encourage states to complete rebalancing of local rates to offset the impact of lost access revenues."[5] Reducing intrastate switched access rates to interstate levels now will make it easier to conform to the additional access reductions contemplated in the NBP. The NBP recommends the FCC should reduce ICC rates by phasing out the per-minute rate for the origination and termination of telecommunications traffic all together.[6]

The excess subsidies in intrastate switched access rates harm consumers in a number of ways. First, high access rates provide a disincentive for some companies to deploy or aggressively market broadband-enabled VoIP services which avoid the traditional wireline long

[5] NBP, p. 148
[6] NBP, p. 150

distance calling and above cost access subsidies for the LECs.[7] Even where LECs have deployed broadband capabilities to 100 percent of their service territory, the LEC may be reluctant to deploy more efficient VoIP services over those broadband facilities so long as high access charges are generating sizable subsidies from traditional wireline long distance calling. As explained in the NBP:

> For example, to retain ICC revenues, carriers may require an interconnecting carrier to convert Voice over Internet Protocol (VoIP) calls to time-division multiplexing in order to collect intercarrier compensation revenue. While this may be in the short-term interest of a carrier seeking to retain ICC revenues, it actually hinders the transformation of America's networks to broadband.[8]

Second, for those companies whose access revenues are a substantial share of overall revenue, as switched access volumes and revenues decrease such companies will have less to reinvest in their networks and emerging technologies, which may leave rural communities without the benefit of advanced technologies.

Third, high access charges mean that consumers are paying more than they should for long distance service. As long distance providers are required to maintain statewide averaged long distance rates, this harm affects consumers throughout the state, not just those served by the LECs with the highest access charges.

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[7] A paper published by the Phoenix Center For Advanced Legal & Economic Public Policy Studies found that high switched access rates discourage, rather than foster, broadband investment. "[H]igh non-uniform intercarrier compensation rates can deter broadband deployment when broadband represents a threat to existing revenue streams drawn from high termination rates." The paper concluded that "in high cost areas, the incentive of an incumbent LEC to upgrade its network to broadband service is diminished – and perhaps outright deterred – by the current system of high, carrier-specific call termination rates". Phoenix Center for Advanced Legal & Economic Public Policy Studies, *Do High Call Termination Rates Deter Broadband Deployment*? Phoenix Center Policy Bulletin No. 22 (October 2008) at 8 – 9.

[8] NBP, pg. 142 (internal citations omitted).

Fourth, the excessive access subsidy distorts and overstates the true cost of wireline long-distance service, and prevents wireline long distance providers from fully competing against providers of other communications services. Consumers are best served when prices reflect underlying cost and all competitors can compete on a level playing field.

Fifth, the current regime – where LECs charge vastly different rates for the same access service, depending on whether the call is "interstate" or "intrastate" – creates incentives for carriers to misclassify traffic, and results in the needless administrative costs of maintaining and enforcing two different rate structures for the same service. Indeed reducing intrastate access rates to interstate levels would likely reduce phantom traffic that the rural LECs have complained about.[9] This disparity in access charges also creates other incentives for harmful arbitrage.

C. AT&T Principles for Intrastate Switched Access Reform

AT&T strongly believes that intrastate switched access reform should be an integral part of OUSF reform. In that regard, set forth below are AT&T's Principles for Reform of Intrastate Access.

1. Reduce Access Rates: All Oregon ILECs should be required to reduce and maintain intrastate switched access rates that mirror that company's corresponding interstate switched access rate level and structure.
    a. CLECs should be required to cap their intrastate switched access rates at the intrastate access rate of the ILEC in the service area in which they compete.
2. Recovery of Lost Access Revenues: A statewide uniform retail rate benchmark for local retail rates should be established to determine how much of the ILEC access revenue reduction would be recovered first from retail rates.
    a. ILECs should be allowed to offset access revenue reductions with the opportunity (but not the requirement) to increase retail rates up to the benchmark. No rate

[9] AT&T uses the term phantom traffic to describe a situation where the call signaling information or call detail records do not specify the carrier responsible for payment of functions performed and/or the appropriate jurisdiction of the call. AT&T believes that the term phantom traffic should not include traffic that is exchanged without correct signaling information due to technical limitations.

case proceeding would be required as the effect of such a change would be less than or equal to their current revenue levels. Access revenue reductions that exceed the benchmark can be recovered from the OUSF.

b. Since the retail rate increases up to the benchmark are optional the benchmark rate would be imputed for calculation of ILEC's OUSF support.

D. Commission Should Complete What it Started

The Commission in UM 1017, Order No. 03-082, approved a stipulation which among other things required that rural ILECs that receive support payments from the OUSF must file tariff changes to reduce intrastate switched access charges. While this was a good first step, over time rural ILECs' access have increased substantially and are not at parity with their interstate access rates. Further, intrastate switched access rates for non-rural ILECs do not mirror their federal interstate switched access rates. This is despite the fact that in general the same facilities provide interstate and intrastate switched access functions, but at vastly different rates.

In summary, eliminating implicit subsidies and artificially low prices for wireline local service will better prepare consumers for the transition to broadband service, and may also encourage more consumers to choose broadband service. In turn, providers will have increased incentives to invest in and improve broadband deployment as the competition intensifies.

III. Step 2 - Transition OUSF to a Broadband Fund

As noted in the NBP, "[t]he current per-minute ICC system was never designed to promote deployment of broadband networks…"[10] The NBP, therefore, recommends a number of changes that must occur to advance to an all-broadband world.

AT&T has advocated at the federal level that the high cost universal service mechanism should transition from the legacy support mechanisms to broadband focused mechanism that

[10] NBP, pg 142

targets high-cost support to areas where service meeting the definition of advanced telecommunications capability are not yet available. AT&T has also advocated that the FCC must ensure that its universal service support mechanisms and policies do more to encourage states to eliminate implicit subsidies. In particular, that the FCC should condition the receipt of federal high-cost support on reduction in intrastate switched access charges.

Oregon should position itself so that it can take full advantage of any of the benefits offered by the FCC for broadband. It is currently unknown what requirements the FCC will impose on states and/or carriers in order to be eligible for receipt of support from the CAF or other funds that the NBP contemplates, such as the Mobility Fund. Once the FCC establishes rules for the CAF, Oregon should determine whether or not the OUSF is still needed and, if so, what changes should be made to compliment and capitalize on the CAF. The Commission may need additional authority from the legislature to transform the OUSF into a broadband fund which AT&T does not oppose. However, except for intrastate access reform, Oregon should not actually implement any changes to the OUSF until the FCC determines how it will disburse money from the CAF.

IV. Comments on Consolidated Issues List

AT&T provides the following comments on the specific questions contained in the Consolidated Issues List. As the list is quite expansive AT&T has not endeavored to provide responses to each question. Further, a number of the questions appear to be duplicative; in those cases AT&T has attempted to group the questions and provide a single response.

A. Need for an OUSF

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

As described in Step 1 above, the OUSF should also be used for intrastate switched access reform when the revenue requirements for an ILEC from such reductions exceed a statewide benchmark for local retail rates. Further, AT&T does not oppose a fund that provides additional support to high-cost areas; however, AT&T believes that it is appropriate that carriers seeking these additional high cost funds be subject to a revenue review.

3. ***Is there a need for an intrastate mechanism to fund broadband?***
4. ***Assuming there is a need to fund both narrowband and broadband services, should there be a separate fund for each?***

As explained in more detail above, AT&T believes that it is too early to determine whether or not there will be a need for an intrastate mechanism to fund broadband service in Oregon. Before such a determination can be made the FCC needs to provide additional details on the support that will be available from the federal fund and the structure for such support.

B. The Current OUSF

6. Should the Commission retain the status quo until it knows what the FCC is doing and how the National Broadband Plan ("NBP") and American Recovery and Reinvestment Act are implemented?

No. As described above, there are a number of steps that Oregon should take today to smooth the transition to an all-broadband world. Indeed, Oregon should move immediately to reform intrastate switched access rates to mirror the interstate rates and rate structure. This will prepare the LECs in Oregon for the new all-broadband world by stabilizing revenue flows and addressing the implicit subsidies in intrastate switched access service.

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

AT&T believes that the current supported services should be those found in 47 C.F.R. §54.101(a)(1) to (9). AT&T has recommended to the FCC that the list of supported services change when the FCC establishes the CAF. In this regard, if and when the OUSF changes to a broadband fund, the list of supported services should also change and should take into account the supported services under the CAF.

9. What is a reasonable and affordable rate for basic telephone service in 2010? Should the Commission revisit the current benchmark rate for basic telephone service?[11]

As an initial matter, AT&T would like to point out that there is a difference between retail local rates paid by consumers and a cost benchmark. There is a wide range of local retail rates in Oregon; however, in general these rates are very low with some companies charging under $10 per month for basic telecommunications service.

As describe above, AT&T believes that a primary component of OUSF reform in Oregon is to bring intrastate switched access rates to parity with interstate switched access rates. As described above, a critical component of this reform is to rebalance local rates as a way to make up for the lost subsidies from decreases in access revenues. The NBP "encourage[s] states to complete rebalancing of local rates to offset the impact of lost access revenues…[as] [d]oing so would encourage carriers and states to 'rebalance' rates to move away from artificially low $8 to

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[11] AT&T has included the following questions in this response:

> 21. Can the cost of providing service in high cost areas be recovered by increasing rates to the customers in those high cost areas while meeting the affordability test under 4 U.S.C. 254(b)(1) and (2) and others, while providing vouchers to customers who meet the income/wealth test? If so, should it?
>
> 28. Before determining the size of the universal service fund should local service rates for companies receiving money from the fund be brought up to a minimum, state-wide, zone specific rate? If yes, how should these rates be determined?

$12 residential rates that represent old implicit subsidies to levels that are more consistent with costs."[12]

Establishing a benchmark for local retail rates in Oregon would benefit Oregon consumers in several ways. First, an ILEC that reduces its intrastate switched access rates is not forced to raise its local retail rate to make up reduced access revenue. Rather, the ILEC may set its rate below the statewide local retail rate benchmark; however, the ILEC's OUSF distribution will be determined as if it had raised its local rates to the benchmark. Second, the statewide local retail rate benchmark would have the effect of bringing widely disparate local rates closer together, such that LECs with extremely low local rates are brought closer to cost as the local rate is increased and LECs with higher local rates (i.e., those above the benchmark) are subsidizing to a lesser extent those consumers with low local rates. This means that carriers will correctly look to their own customers first for the cost of local service before obtaining support from their competitors. A benchmark helps to ensure that each provider's support is determined equitably relative to one another.

In an all-broadband world, nationwide (if not all-distance) voice service is but one low or no-cost application provided over the broadband network. Artificially low local retail rates must be transitioned upward so that they will not serve as a barrier to more widespread adoption of broadband service, which can have much higher retail rates.

Further, implementing access reform and rebalancing local rates is consistent with the recommendations of the NBP which encourage states to complete rebalancing of local rates to offset the impact of lost access revenues, and move from local service rates at levels that reflect old implicit subsidies to levels that are more consistent with cost. Not only will this action

[12] NBP page 142 (citation omitted).

provide consumers the benefit of lower long distance rates, it will also prepare consumers for the all broadband world which is approaching rapidly and lacks a comparable subsidy mechanism.

Last, setting a benchmark for local retail rates will bring Oregon in line with other states. For example, the current rate cap for local retail rates in New York is $23,[13] while Pennsylvania has an $18 cap which it may increase at the conclusion of an ongoing investigation.[14]

10. The 2003 order permitting small carriers to draw from the OUSF (Docket UM 1071, Order No. 03-082) contemplated that the fund would be used to offset access rate reductions. Has such offset occurred?

After the initial offset the small carriers have raised their intrastate access rates in annual tariff filings. Indeed, AT&T believes that for the small carriers the cumulative intrastate switched access rate has increased 89% since the initial offset access rate reduction.

AT&T believes that as part of the OUSF reform, the Commission should require all LECs, including the small carriers, to reduce their intrastate access rates to mirror the rate levels and rate structure of that carrier's interstate switched access rates and that this parity must be maintained going forward. In addition, CLEC intrastate switched access rates should be capped at the level of the corresponding ILEC in the area in which they compete.

C. **Future Objective of an OUSF:**

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

[13] NY PSC Case 05-C-0616, Order issued April 11, 2006.

[14] Access Charge Investigation per Global Order of September 30, 1999, Docket Nos. M-00021596, etc. (Opinion and Order entered July 15, 2003)(available on PA Commission website).

As discussed above, the OUSF should position Oregon to transition to broadband by allowing LECs with COLR obligations to offset access reductions not recovered by increasing local retail rates to a statewide benchmark level.

18. Should access reform be an integral part of OUSF reform? Should any portion of the OUSF fund be used to offset access rate reductions?

Yes. As described in detail above, AT&T believes that intrastate switched access reform is a critical first step in reforming the OUSF and preparing Oregon for the transition to an all-broadband world.

19. Should any portion of the OUSF be directed to providing vouchers to individuals, who qualify based on income, impacted by increases in basic service charges resulting from mandatory access rate reductions?

The current Lifeline program, including the Oregon Telephone Assistance Program ("OTAP") in Oregon, is a "voucher-type" program, in that the low income end user receives the discount and that end user can pick the eligible telecommunications carrier that serves their area. AT&T supports a voucher-type program for Lifeline and has submitted a proposal to the FCC to streamline the outreach and eligibility process for Lifeline. Further, AT&T would not object to Oregon removing the requirement that qualifying Lifeline customers be assessed the RSPF. Also, if there is a concern that Lifeline customers would be adversely affected by an increase in the local service rate modifications could be made to the OTAP to provide additional support.

21. Can the cost of providing service in high cost areas be recovered by increasing rates to the customers in those high cost areas while meeting the affordability test under 47 U.S.C. §254(b)() and (2) and others, while providing vouchers to customers who meet the income/wealth tests? If so, should it?

See response to question 9 above.

22. As a larger number of households opt for wireless service is there a need to support the wireline network in Oregon?

Yes. The wireline network remains as a critical component of service in Oregon. Further, to the extent that wireline providers continue to have COLR obligations there should be funding available to these companies in accordance with Step 1 outlined above.

24. Should it be a specific objective of the fund to ensure that under-served areas get the needed communication services to create parity throughout the state of Oregon?[15]

As this question discusses "communication service", AT&T references the two steps that it has set forth above which are critical to transitioning the OUSF to an all-broadband world.

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

Unsubsidized competitors do not have the same obligations, such as COLR, and therefore can decide where to provide service and what rates to charge. This should be recognized in making any decision regarding areas to fund.

D. Future Size of Fund

26. Should the size of the fund be directly tied to its objectives (e.g. supporting voice service in high cost areas, expanding broadband service to currently unserved areas, providing on-going support for voice and broadband service in high cost areas).

As set forth above, AT&T believes that the OUSF should first be used to offset reductions in intrastate switched access rates after local service rates are brought up to a state-wide benchmark as described in Step 1 above. For Step 1 the size of the fund will be determined by the local retail benchmark. For Step 2, transition to a broadband fund, a determination about whether a fund is needed and the size of the OUSF should be determined after the FCC sets forth its requirements for the CAF. This will ensure that the OUSF is no larger than necessary and compliments what is established by the FCC.

[15] AT&T's response to this question also answers questions 23 and 25.

27. Should there be a state limit on the size of the OUSF? If so, how should it change over time or as the federal jurisdiction assigns more cost to the state jurisdiction? Should there be mechanisms to reduce the fund over time; 2) mechanisms to periodically review whether the fund is still needed; or 3) associated triggers for determine whether unfunded competitive offerings are sufficient to do away with the funding?

AT&T believes that the OUSF should be reviewed periodically to evaluate whether the OUSF is still necessary and, if so, the appropriate support level. Any such review should consider changes to funding needs and the impact of changes to the federal USF.

28. Before determining the size of the universal service fund, should local service rates for companies receiving money from the fund be brought up to a minimum, state-wide, zone specific rate? If yes, how should these rates be determined?

See response to question 9 above.

E. Future Requirements for Receiving Money from the Fund

29. Should there be a revenue test or a profitability test as well as a cost test for determining eligibility of a company to receive money from the fund? If yes, which revenues should be included?

As described above, for Step 1 (intrastate access reform), AT&T does not believe that there should be a revenue or profitability test in order for a carrier to receive money from the fund. Any OUSF support distributed beyond that necessary for access reform should require a revenue review.

30. Should competitive bidding, or other similar mechanisms, be considered in order to ensure the smallest burden possible on all consumers who support the fund?

For Step 2 (transition to a broadband fund), Oregon should determine its requirements after the FCC sets forth the requirements for the CAF. AT&T has previously advocated that the FCC adopt a competitive application process to bring broadband service to unserved areas.[16]

F. Future Requirements: Company, Customers, or Specific Geographic Area

32. Should the support go to communications consumes in the form of vouchers in a high cost area or should the support go to the specific company serving that consumer?

AT&T believes that support from the OUSF should not be distributed via vouchers.

G. Future Accountability

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

The answer to this question depends on the type of support being provided by the OUSF. Disbursements from the OUSF for AT&T's proposed Step 1 (intrastate switched access reform), should be the difference between the access shift encountered by the ILEC for the reduction of intrastate switched access rates to interstate switched access rates and rate levels minus the revenues based on a local service retail rate benchmark. The Commission can ensure that the support provided from the OUSF for AT&T proposed Step 1 is used for its intended purpose by ensuring that the LECs intrastate switched access rates continue to meet its interstate switched access rates and rate levels.

If the OUSF transitions to a broadband fund, this question will have to be considered at that time and will depend on whether and how support from the OUSF is distributed for broadband.

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[16] See Comments of AT&T Inc., *In the Matter of Connect America Fund,* WC Docket No. 10-90, *A National Broadband Plan for Our Future,* GN Docket No. 09-51, *High Cost Universal Service Support,* WC Docket No. 05-337 (filed July 12, 2010).

41. If a benchmark for voice grade service is used to determine support, should that benchmark include mandatory EAS?

As described in response to question 9 above, AT&T believes that a local retail service benchmark should be established for AT&T's proposed Step 1 (intrastate switched access reform).

H. Future Look at COLR Obligations

COLR obligations are a relic of a by-gone era and regulatory compact in which carriers were granted an exclusive franchise and guaranteed a reasonable rate of return in exchange for a commitment to build out their networks and provide high quality, basic telecommunications services at affordable and nondiscriminatory rates to all consumers in their service territories. That compact relied on a patchwork of implicit subsidies implemented through federal and state regulated rates. This paradigm has become unsustainable following the elimination of the government-sanctioned monopolies on which it was predicated. Carriers without COLR obligations have rationally opted to deploy their networks in areas in which it is economic to do so. Meanwhile ILECs with COLR obligations have been facing a decline in implicit subsidies (access charges). As more consumers move away from the technology and service they relied on in the past (traditional telephone service/PSTN/circuit-switched voice), the regulations and subsidies that support that model are rapidly becoming unsustainable.

As the FCC outlined in the NBP, "regulations require certain carriers to maintain POTS – a requirement that is not sustainable – and leads to investments in assets that could be stranded. These regulations can have a number of unintended consequences, including siphoning investments away from new networks and services."[17] In preparing for this transition, the FCC

[17] NBP, Recommendation 4.5 at 59.

is looking to ensure that legacy regulations do not become a drag on the consumer-driven shift toward an all-broadband network. Oregon should undertake this same review.

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

AT&T believes that any carrier currently receiving support from the OUSF should be subject to COLR obligations. AT&T believes that this requirement should continue through its proposed Step 1 outlined above.

44. What role does the COLR play going forward? Should there be a new definition of the COLR obligations to reflect current expectations of communications customers?

AT&T has recommended that in transitioning the existing federal high-cost support mechanism to broadband, the FCC adopt a competitive application process to bring broadband to unserved areas. Interested providers would identify the unserved areas they are willing to serve and the amount of support they determine is necessary to meet the service obligations established by the FCC (e.g., obligation to provide the supported services for five years). If it is determined that the OUSF is necessary to provide additional incentives for broadband deployment in unserved areas, Oregon may want to follow the model that is developed for disbursement of federal funds. However, for the reasons discussed above, this decision should occur once the FCC has established the rules for the proposed CAF.

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

AT&T believes that the providers who continue to have COLR obligations should have the flexibility to utilize available technology to satisfy those obligations.

I. **Future Broadband Deployment**

AT&T believes that there are too many unknowns right now to answer a number of these questions. First, the FCC needs to issue its NPRM and finalize its rules for the proposed CAF.

Once this occurs Oregon will be in a better position to determine whether, and if so, the extent to which there is a need for a state USF for broadband.

AT&T has submitted a number of comments to the FCC outlining its thoughts for such funds, but these may or may not be adopted by the FCC in its final ruling. For example, AT&T has suggested that project-based funds should be distributed from CAF through a competitive application process to deploy and maintain broadband facilities in unserved areas.[18] Interested providers would identify the unserved areas they are willing to serve and the amount of support they determine is necessary to meet the service obligations established by the FCC (e.g. obligation to provide the supported services for five years).

AT&T has also noted that ongoing federal support may be necessary to sustain service in areas that have already have broadband because of the existing high-cost universal service program and revenues currently derived from ICC. AT&T believes that the FC will need to establish some methodology to identify the carriers and the high-cost areas that require continued support, and another methodology to determine how such support should be calculated. Further, decisions will have to be made regarding how to transition funding from the legacy federal high-cost support mechanisms to the CAF.

Consequently, AT&T believes the questions in this section should be discussed once the FCC determines the requirements for the CAF.

J. Future Funding

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

In general, AT&T believes that contributions to state universal service funds should be broadly based and competitively neutral. With respect to contributions by interconnected VoIP

[18] An unserved area is one in which broadband service is not available.

providers, AT&T supports the notion that interconnected VoIP providers should pay into a state universal service fund; however, this cannot be implemented until the FCC clarifies that states are not preempted from requiring such contributions, contrary to its earlier determination in the *Vonage Order*.[19] This matter is currently pending before the FCC. In July 2008, AT&T requested that the FCC make clear that state universal service contribution requirements on VoIP are consistent with federal policy and therefore lawful.[20] Subsequently in July 2009, the Nebraska Public Service Commission ("Nebraska PSC") and the Kansas Corporation Commission (Kansas CC") petitioned the FCC requesting a declaratory ruling that states are not preempted from assessing universal service charges on the intrastate revenues of providers of nomadic VoIP service.[21]

Providers must have the option to recover their contributions to the OUSF, or a separate state broadband fund, from retail customers e.g., as a line item on bills.

67 and 69. Should the basis for contributing to the fund be revenues, telephone numbers (or their equivalent), or some other basis?

AT&T believes that in order to ensure national uniformity and lessen the burden of state universal service funds, state funds should mirror the contribution methodology that is in place at the time for the FUSF. Currently the FUSF is funded based on a percentage of interstate and

[19] See *Vonage Order*, 19 FCC Rcd at 22408, para. 10 & n. 28.

[20] See letter from Robert W. Quinn, AT&T Services, Inc. to Chairman Kevin Martin, *In the Matter of IP-Enabled Services,* WC Docket No. 04-36; *Universal Service Contribution Methodology*, WC Docket No. 06-122, *Federal Joint Board on Universal Service*, CC Docket No. 96-45 (July 17, 2008).

[21] See *Petition for Declaratory Ruling of the Nebraska Public Service Commission and the Kansas Corporation Commission for Declaratory Ruling or, in the Alternative, Adoption of Rule Declaring that State Universal Service Funds May Assess Nomadic VoIP Intrastate Revenues*, WC Docket No. 06-122 (filed July 16, 2009).

international telecommunications retail revenues. If in the future, the FCC changes the federal USF contribution methodology, Oregon should review OUSF contribution methodology to determine what changes may be appropriate.

68 and 71. If categories of companies are ineligible for support, should they or their customers be required to pay into the fund?

Receipt of support should not be the basis for deciding if a category of providers should contribute to the OUSF.

K. Transitioning of the Fund

AT&T believes that the questions in this section should be discussed once the requirements for the CAF are determined.

L. Tribal Lands

The questions posed in this section raise a number of complex issues. AT&T does not have any comments on this section at this time.

V. Conclusion

A smooth transition to an all-broadband world requires a two-step process. First Oregon should reduce intrastate switched access rates to mirror interstate switched access rates and rate structures. Then Oregon should transition the OUSF to a broadband fund, if support is necessary, once the FCC sets forth its requirements for the CAF. This will ensure that the OUSF is kept as small as possible.

DATED this 25th day of Oct., 2010.

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By [signature]

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