

**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.

NOTICE OF
EX PARTE COMMUNICATION

By Order No.13-162 entered May 2, 2013 in this docket,¹ the Commission ordered that Phase III of these proceedings be opened addressing the issues set forth in Paragraph 4 of the Stipulation attached as Appendix A to that order.² Those issues are as follows:

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

OAR 860-001-0340(1) provides that *ex parte* communications are discouraged and, if made, must be disclosed to ensure an open and impartial decision-making process. OAR 860-001-0340(2) sets forth the circumstances that constitute an *ex parte* communication. OAR 860-001-0340(5) sets forth the duties of the presiding administrative law judge (ALJ) in the event an *ex parte* communication occurs.

¹ Corrected by Order No. 13-162.

² Order No. 13-162, Appendix A at 1-2.

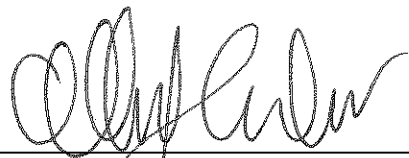
I find that an *ex parte* communication as defined in OAR 860-001-0340(2) has occurred relative to the proceedings in docket UM 1481 and hereby notify the parties of record in accordance with the requirements of OAR 860-001-0340(5), as follows:

On the morning of October 29, 2013, Brant Wolf, Executive Vice President of the Oregon Telecommunications Association (OTA) and Richard A. Finnigan, OTA counsel, met with Oregon Public Utility Commissioner Stephen M. Bloom; Michael Dougherty, Chief Operating Officer; Roger White of the Commission Staff and ALJ Sarah Rowe. The purpose of the meeting was to “preview” a petition for an administrative rulemaking which the OTA intended to file with the Commission for the purpose of adding “access to Broadband” to the definition of Basic Telephone Service. At the beginning of the meeting, OTA provided explanatory materials related to the planned petition. The materials are affixed hereto as Attachment A. Mr. White indicated that the Commission Staff, as well as other parties in docket UM 1481, might well oppose the petition for rulemaking because of its impact on the Oregon Universal Service Fund.

Commissioner Bloom then contacted me in my capacity as the presiding ALJ in docket UM 1481, and reviewed with me the essence of the materials provided and the intention of the planned petition. I stated that the subject matter of the petition appeared to fall within the issues designated by the Commission to be addressed in this proceeding. The meeting between OTA, Commissioner Bloom, and OPUC employees was immediately terminated.

A copy of this notice will be placed in the record. Pursuant to OAR 860-001-0340(7), any party may file a written rebuttal to the *ex parte* communication, with service to other parties to the proceeding within 10 days.

Dated this 30th day of October, 2013, at Salem, Oregon.



Allan J. Arlow
Administrative Law Judge

Adding “Access Broadband” to the Definition of Basic Telephone Service

Definition

- (1) Purpose of rule. This rule defines the term "basic telephone service" pursuant to Ch. 1093, Laws of 1999 (SB 622), Section 23(1), as the term is used in Ch. 1093, Laws of 1999 (SB 622), Sections 23 through 38.
- (2) "Basic telephone service" means retail telecommunications service that is single party, has voice grade or equivalent transmission parameters and tone-dialing capability, provides local exchange calling, and gives customers access to but does not include:
 - (a) Extended area service (EAS);
 - (b) Long distance service;
 - (c) Broadband service;
 - (d) Relay service for the hearing and speech impaired;
 - (e) Operator service such as call completion assistance, special billing arrangements, service and trouble assistance, and billing inquiry;
 - (f) Directory assistance; and
 - (g) Emergency 9-1-1 service, including E-9-1-1 where available.
- (3) The following are classified as basic telephone service, whether sold separately or in a package:
 - (a) Residential single party flat rate local exchange service;
 - (b) Business single party flat rate local exchange service, also known as "simple" business service;
 - (c) Residential single party measured local exchange service, including local exchange usage;
 - (d) Business single party measured local exchange service, including local exchange usage;
 - (e) Private branch exchange (PBX) trunk service;
 - (f) Multiline or "complex" business service; and
 - (g) Public access line (PAL) service.

Adds

Access to Broadband Service
(provided by ISPs)

Not

Broadband Service

Similar to

Access to long distance service
(Provided by IXC's)

Not

Long distance service

	<u>2001</u>	<u>2012</u>
Broadband Availability	15% of users with access to the Internet using broadband	74.7% of all Oregon homes are broadband users
Internet usage	74 petabytes*/month	13,143 petabytes/month
Fixed broadband connections	12.4 million	90 million

*Petabyte is a quadrillion bytes or 1,000,000,000,000,000 bytes.

Oregon Broadband Advisory Report (2012)

- 100% of respondents believe that broadband enables local companies to increase their trading area.
- 91.7% believe that broadband enables new businesses to locate in their communities.
- 83.3% believe that broadband enables their communities to retain businesses.
- 75% believe that broadband increases the number of business start-ups.
- 41.7% believe that broadband increases individual's income earnings

ORS 759.016

“ . . . it is the goal of this state to promote access to broadband services for all Oregonians in order to improve the economy in Oregon, improve the quality of life in Oregon communities and reduce the economic gap between the Oregon communities that have access to broadband digital applications and services and those that do not, for both present and future generations.” (Emphasis supplied)

ORS 759.015

“ . . . it is the goal of the State of Oregon to secure and maintain high-quality universal telecommunications service at just and reasonable rates for all classes of customers and to encourage innovation within the industry by a balanced program of regulation and competition.”
(Emphasis supplied)

CONGRESS

"The national broadband plan. . . shall seek to ensure that all people of the United States have access to broadband capability and shall establish benchmarks for meeting that goal."