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**VIA E-FILING**

Oregon Public Utility Commission  
PO Box 1088  
Salem OR 97308-1088

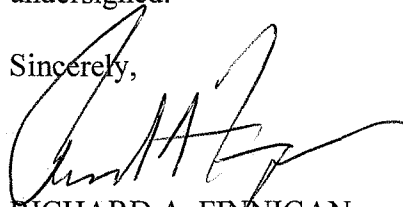
Re: Petition to Amend the Definition of Basic Telephone Service in OAR 860-032-0190 to Include Access to Broadband Service

Dear Sir/Madam:

Enclosed you will find the Oregon Telecommunications Association's Petition to Amend the Definition of Basic Telephone Service in OAR 860-032-0190 to Include Access to Broadband Service.

If there are any questions, please contact the undersigned.

Sincerely,



RICHARD A. FINNIGAN

RAF/cs  
Enclosures

cc: Brant Wolf (via e-mail)  
members (via e-mail)

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BEFORE THE PUBLIC UTILITY COMMISSION  
OF OREGON

In the Matter of the Petition of the Oregon  
Telecommunications Association to Amend  
OAR 860-032-0190, Definition of Basic  
Telephone Service

DOCKET NO.

PETITION TO AMEND THE DEFINITION  
OF BASIC TELEPHONE SERVICE IN OAR  
860-032-0190 TO INCLUDE ACCESS TO  
BROADBAND SERVICE

INTRODUCTION

This Petition to Amend the Definition of Basic Telephone Service in OAR 860-032-0190 to include Access to Broadband Service (Petition) is filed on behalf of the Oregon Telecommunications Association (OTA). In the Petition, OTA is requesting that the Oregon Public Utility Commission (OPUC or Commission) modify the definition of the term "basic telephone service" to include "access to broadband service" as part of the definition. The Petition is filed in accordance with the requirements of ORS 183.390 and OAR 137-001-0070. OTA requests that the OPUC expeditiously review and grant the Petition.

OREGON TELECOMMUNICATIONS  
ASSOCIATION PETITION TO AMEND OAR  
860-032-0190 - 1

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1 BACKGROUND

2 The Oregon Legislature delegated to the Commission the responsibility to define "basic  
3 telephone service." ORS 759.040(1). Acting under this authority, the Commission adopted a  
4 definition of basic telephone service in OAR 860-032-0190. The definition adopted by the  
5 Commission in OAR 860-032-0190 has been in place since 2001. That definition reads as follows:  
6

7 **860-032-0190**

8 **Definition of Basic Telephone Service**

9 (1) Purpose of rule. This rule defines the term "basic telephone service" pursuant to  
10 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.

11 (2) "Basic telephone service" means retail telecommunications service that is single  
12 party, has voice grade or equivalent transmission parameters and tone-dialing  
13 capability, provides local exchange calling, and gives customers access to but does  
not include:

14 (a) Extended area service (EAS);

15 (b) Long distance service;

16 (c) Relay service for the hearing and speech impaired;

17 (d) Operator service such as call completion assistance, special billing arrangements,  
service and trouble assistance, and billing inquiry;

18 (e) Directory assistance; and

19 (f) Emergency 9-1-1 service, including E-9-1-1 where available.

20 (3) The following are classified as basic telephone service, whether sold separately  
21 or in a package:

22 (a) Residential single party flat rate local exchange service;

23 (b) Business single party flat rate local exchange service, also known as "simple"  
business service;

24 (c) Residential single party measured local exchange service, including local  
25 exchange usage;

1 (d) Business single party measured local exchange service, including local exchange  
2 usage;

3 (e) Private branch exchange (PBX) trunk service;

4 (f) Multiline or "complex" business service; and

5 (g) Public access line (PAL) service.

6 (4) Services that are not considered basic telephone service include but are not  
7 limited to the following:

8 (a) Integrated Services Digital Network (ISDN) service;

9 (b) Digital subscriber line service, also known as xDSL service;

10 (c) Frame relay service;

11 (d) Centrex-type service;

12 (e) Private line or dedicated point-to-point service;

13 (f) Packet switched service;

14 (g) Foreign exchange service;

15 (h) Multiparty service, such as two-party and four-party suburban service; and

16 (i) Custom calling features, such as call waiting and caller ID.

17 Over the past fifteen years, substantial changes have occurred in the telecommunications  
18 industry. These changes warrant revisiting the definition of basic telephone service. In particular,  
19 given the importance that access to broadband service has taken on in every-day life for residential  
20 customers and the virtual necessity of access to broadband service for business customers, it is  
21 important to take the time to consider whether access to broadband service is now a part of basic  
22 telephone service.

1 1. Recent FCC Decisions Provide Support for Taking Action.

2 Over the past several years, the Federal Communications Commission (FCC) has been  
3 moving federal universal support away from supporting only legacy voice services and moving the  
4 federal universal service program toward providing support for broadband capable loops. In March  
5 of this year, the FCC completed that action by adopting two approaches that provide support for  
6 broadband capable loops. The FCC adopted the two pronged approach where rate-of-return carriers  
7 may elect either: (1) a model-based support for a term of ten years in exchange for meeting defined  
8 broadband build-out obligations; or (2) remaining on reformed "legacy" mechanisms which again  
9 have defined broadband buildout obligations.<sup>1</sup> The changes adopted by the FCC for the second  
10 track include modifying the traditional interstate common line support (ICLS) rules to provide a  
11 reformed mechanism known as the Connect America Fund Broadband Loop Support (CAF BLS).  
12 This change provides support for broadband-capable loops regardless of whether the customer  
13 chooses to purchase traditional voice service, a bundle of voice and broadband, or only broadband  
14 service.<sup>2</sup> Whether a rate-of-return carrier chooses model-based support or remains on the reformed  
15 legacy support mechanisms, there are broadband deployment objectives that must be met by the  
16 rate-of-return carrier to ensure that broadband service is more widely made available and that the  
17 USF support mechanisms provided at the federal level are targeted toward meeting those broadband  
18 deployment objectives.  
19  
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23  
24 <sup>1</sup> The FCC refers to carriers as "model-based carriers" or "legacy carriers" based on the path chosen by the carrier.

25 <sup>2</sup> *Connect America Fund et al.*, WC Docket No. et al., Report and Order, Order and Order on  
26 Reconsideration, and Further Notice of Proposed Rulemaking, 31 FCC Red 3087 (2016).

1           There are specific broadband objectives laid out in the FCC 's Order. Under these objectives  
2 the carriers receiving federal support must provide at least 25 Mbps downstream and 3 Mbps  
3 upstream to certain percentages of customers. There are additional milestones for the carrier  
4 receiving federal support to provide 10/1 Mbps broadband service. Finally, there are other  
5 milestones to meet in very high cost areas that are premised on a 4/1 Mbps broadband service. A  
6 detailed listing of these broadband objectives is set out in Appendix A.  
7

8  
9           Thus, the actions of the FCC in "repurposing" federal USF support to be used for broadband  
10 capable loops is recognition of a substantial change in the telecommunications environment. These  
11 actions at the federal level support taking a fresh look at the state level.  
12

13       2.       The Commission has Authority to Amend the Definition of Basic Telephone Service.  
14

15           It is without question that the Commission has the authority to define basic telephone  
16 service. That authority is granted directly in ORS 759.400(1). In addition, it is also clear that the  
17 Commission has the discretion to periodically review and evaluate the status of telecommunications  
18 services in Oregon and to "designate the services included in basic telephone service."<sup>3</sup> Thus, this  
19 rule amendment exercise requested in this Petition is firmly within the Commission's authority.  
20 Indeed, given the language in ORS 759.425(2), it is at least implied that the Commission should  
21 undertake a review of the definition of basic telephone service from time to time. Given the  
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24       <sup>3</sup> ORS 759.425(2).  
25

1 changes in the industry since 2001, which are discussed in more detail below, such a review is  
2 appropriate.

3  
4 3. Access to Broadband Service is not Broadband Service Itself.

5 OTA emphasizes that broadband service itself would not be part of the definition of basic  
6 telephone service. Instead, it is the access to broadband service that would be part of the definition  
7 of basic telephone service.  
8

9  
10 The concept of "access to broadband service" conforms to the current structure of OAR 860-  
11 032-0190. As set out in OAR 860-032-0190(2), basic telephone service is defined as retail  
12 telecommunications service that is single party, voice grade service providing local exchange  
13 calling "and gives customers access to but does not include" a number of services listed in the rule.  
14 The listed services are EAS, long distance service, operator service, relay service for the hearing  
15 and speech impaired, directory assistance, and E-911. OTA is requesting that access to broadband  
16 service be included in the listed services to which the customer should have access as part of basic  
17 telephone service.  
18

19  
20 An example may help clarify the distinction between "access to broadband service" and  
21 broadband service itself. Under the existing definition of basic telephone service, one of the  
22 elements that is included in the definition is access to long distance service. This does not mean  
23 that long distance service itself is in the definition of basic telephone service. Instead, it is the  
24

1 access, the ability to reach long distance providers, that is part of the definition of basic telephone  
2 service. The same would be true if access to broadband service is added. It is not the broadband  
3 service provided by Internet Service Providers (ISPs) that is part of basic telephone service.  
4 Instead, it is the ability to access the providers of broadband service that would be part of the  
5 definition of basic telephone service just as the current definition requests access to long distance  
6 service providers to be offered.  
7  
8

### 9 FACTS AND ARGUMENT IN SUPPORT OF PETITION

10 1. There have been substantial changes in technology and other factors since the adoption of  
11 the rule.

12 It may be hard to remember just how much things have changed in telecommunications  
13 between 2001 and today. For example, it may be a surprise that at the time the definition of basic  
14 telephone service was adopted by the Commission in 2001, of those with Internet access in the  
15 United States, only fifteen percent of the households used broadband. Everyone else used dial-up  
16 access.<sup>4</sup> Today, one is hard put to find any customers still using dial-up access. Indeed, broadband  
17 access has become nearly ubiquitous in Oregon. As reported to the Legislature in 2012 by the  
18 Oregon Broadband Advisory Council, approximately 74.7 percent of all Oregon households have  
19 broadband in the home.<sup>5</sup> Undoubtedly, that number has increased since then.  
20  
21

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22 <sup>4</sup> The \$500 Billion Opportunity: The Potential Economic Benefit of Widespread Diffusion of Broadband Internet  
23 Access, Robert W. Crandall and Charles L. Jackson at p. 11-12. This study appears to have been sponsored by Verizon  
24 Communications and is available at [www.att.com/public\\_affairs/broadband\\_policy/BrookingsStudy.pdf](http://www.att.com/public_affairs/broadband_policy/BrookingsStudy.pdf) (July, 2001).

25 <sup>5</sup> Broadband in Oregon, A Report of the Oregon Broadband Advisory Council, p. 16 (presented to the Legislature  
26 November 1, 2012) (Broadband Report). This report can be accessed at the Oregon Advisory Council website,  
[www.oregon4biz.com](http://www.oregon4biz.com).



1 Another fact that may be surprising when we look back is that in 2001, there were 12.4  
2 million fixed broadband connections in the United States. By 2013, that number had grown to  
3 approximately ninety-four million fixed broadband connections.<sup>6</sup> In addition, Internet usage has  
4 grown from 74 petabytes per month in 2001 to 18,127 petabytes per month in 2014.<sup>7</sup> Thus, there has  
5 been an extraordinary change in use of the Internet and broadband access between 2001 and today.  
6

7  
8 As other indicators of what has changed, Google was in its infancy in 2001, still three years  
9 away from launching Gmail and also three years in advance of its initial public offering. Facebook  
10 and Twitter did not exist. At that time, many carriers were just starting to move toward investing in  
11 fiber. Over the past decade, the economics of network investment have changed as fiber became  
12 less expensive in many ways than copper. Voice-over-Internet-Protocol was not in commercial use  
13 in 2001.  
14

15  
16 These changes are important for many reasons. Not the least of which is the economic  
17 effect of access to broadband service. As stated in the Broadband Report by the Oregon Broadband  
18 Advisory Council:

19 Broadband is a critical 21st century infrastructure. Many reports and anecdotal  
20 stories suggest broadband plays a significant role in economies. It has been noted  
21 that Oregon has been progressive in recognizing this role and in deploying  
22 broadband infrastructure.<sup>8</sup>

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23 <sup>6</sup> This information can be found at [www.ustelecom.org/broadband-industry/broadband-industry-stats/connections](http://www.ustelecom.org/broadband-industry/broadband-industry-stats/connections).  
Click on Chart-Historical Fixed Broadband Data, then click on Download Chart.

24 <sup>7</sup> This data can be found at [www.ustelecom.org/broadband-industry/broadband-industry-stats/internet-usage](http://www.ustelecom.org/broadband-industry/broadband-industry-stats/internet-usage), then click  
on Historical Data. A petabyte is one quadrillion or, a "1" followed by fifteen zeros. i.e. 1,000,000,000,000,000.

25 <sup>8</sup> Broadband Report at p. 68.

1 In a survey conducted by the Oregon Broadband Advisory Council of Oregon economic  
2 professionals, the following findings were noted:

- 3 • 100% of respondents believe that broadband enables local companies to increase their  
4 trading area.
- 5 • 91.7% believe that broadband enables new businesses to locate in their communities.
- 6 • 83.3% believe that broadband enables their communities to retain businesses.
- 7 • 75% believe that broadband increases the number of business start-ups.
- 8 • 41.7% believe that broadband increases individual's income earnings.<sup>9</sup>

9 Thus, with the changes over the past dozen years and the importance of access to broadband  
10 service, the revision of the definition of basic telephone service to include access to broadband  
11 service is warranted.

12  
13  
14 While there has been significant progress in broadband deployment, the job of providing  
15 access to broadband service is not complete. In the most recent FCC Broadband Progress Report,<sup>10</sup>  
16 the FCC reported that as of December 31, 2014, approximately 10 percent of Americans lack access  
17 to fixed 25 Mbps/3 Mbps advanced telecommunications capability.<sup>11</sup> The FCC reported that there  
18 is a significant disparity in deployment between rural and urban areas, with more than 39 percent of  
19 Americans living in rural areas lacking access to 25 Mbps/3 Mbps advanced telecommunications  
20

21  
22  
23 <sup>9</sup> Broadband Report at p.67.

24 <sup>10</sup> 2016 Broadband Progress Report, GN Docket No. 15-191, FCC 16-6 (rel. January 29, 2016).

25 <sup>11</sup> Ibid. at paragraph 79. Please note that in the 2016 report, the FCC relies on data submitted in the then most recent  
26 report Form 477, which is as of December 31, 2014.

1 capability compared to four percent of Americans living in urban areas.<sup>12</sup> A review of Appendix E  
2 to the 2016 Broadband Progress Report shows similar numbers for Oregon, with ten percent state-  
3 wide lacking availability of 25/3 Mbps service overall and 37 percent in rural areas lacking  
4 availability of the level of service.

5  
6 In looking at adoption rates, the FCC again found that a disparity existed between urban and  
7 rural areas. While there was approximately 11 percent adoption rate of 25/3 Mbps service in 2013  
8 for all areas, that rose to 40 percent in urban areas compared to 33 percent in rural areas.<sup>13</sup> What  
9 this data shows is that not only is there a disparity between urban and rural areas, but that adoption  
10 rates lag behind deployment in significant ways. Overall, what this data shows is that while  
11 progress has been made in deployment of broadband service, there is still work to be done.

12  
13  
14 2. The addition of "access to broadband service" to the definition of basic telephone service is  
15 supported by State law.

16  
17 The Legislative Assembly has recognized the importance of access to broadband service and  
18 adopted legislative findings concerning broadband. The Legislative Assembly stated:

19 That it is the goal of this state to promote access to broadband services for all  
20 Oregonians in order to improve the economy in Oregon, improve the quality of life  
21 in Oregon communities and reduce the economic gap between the Oregon  
22 communities that have access to broadband service digital applications and services  
23 and those that do not, for both present and future generations.<sup>14</sup> (Emphasis supplied)

24 <sup>12</sup> Ibid.

25 <sup>13</sup> Ibid. at paragraph 100.

26 <sup>14</sup> ORS 759.016(1).

1 The Legislature went on to find that this goal could be achieved by "expanding broadband and other  
2 telecommunications services" and "creating incentives to establish and expand broadband and other  
3 telecommunications services."<sup>15</sup> Thus, the Legislature has established as a goal of the state  
4 promoting "access to broadband services for all Oregonians. . . ."<sup>16</sup>  
5  
6

7 The Legislative Assembly has also announced findings on universal telecommunications  
8 service. These findings are consistent with the Legislative Assembly's findings on access to  
9 broadband service. In ORS 759.015 the Legislative Assembly declared ". . . that it is the goal of the  
10 State of Oregon to secure and maintain high-quality universal telecommunications service at just  
11 and reasonable rates for all classes of customers and to encourage innovation within the industry by  
12 a balanced program of regulation and competition."<sup>17</sup> The Legislature directed the Commission to  
13 administer the statutes with respect to telecommunications rates and services in accordance with this  
14 policy.<sup>18</sup> Promoting access to broadband services as the Legislative Assembly found to be the goal  
15 of the state in ORS 759.016 is clearly compatible with the goal of "encouraging innovation" in ORS  
16 759.015. In this way, adding "access to broadband service" to the definition of basic telephone  
17 service is consistent with both the policy of promoting access to broadband service and the policy to  
18 "encourage innovation" within the telecommunications industry.  
19  
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22 <sup>15</sup> ORS 759.016(2)(a) and (b).

23 <sup>16</sup> ORS 759.016(1). It is interesting to note that the Legislature used the term "broadband and other telecommunications  
24 services" implying that broadband is a telecommunications service. While broadband is not today considered a  
25 telecommunications service, access to broadband service certainly can be.

26 <sup>17</sup> ORS 759.015.

<sup>18</sup> Ibid.

1 3. Adding "access to broadband service" to the definition of basic telephone service is  
2 consistent with federal policy.

3 On the federal level, Congress and the Federal Communications Commission (FCC)  
4 recognized the importance of access to broadband service. Congress did so by adopting a  
5 requirement for the FCC to adopt a national broadband plan. In the applicable legislation, Congress  
6 directed that "The national broadband plan . . . shall seek to ensure that all people of the United  
7 States have access to broadband service capability and shall establish benchmarks for meeting that  
8 goal."<sup>19</sup>

10  
11 In adopting the National Broadband Plan, the FCC established that one of the major goals for  
12 the Plan is that "Every American should have affordable access to robust broadband service. . . ."<sup>20</sup>  
13 The FCC goes into great detail on what affordable access to robust broadband service means in its  
14 discussions in the National Broadband Plan.

15  
16  
17 Looking at the effect of access to broadband service on the economy, the FCC found that  
18 "[b]roadband is becoming a prerequisite for economic opportunity for individuals, small businesses  
19 and communities. Those without broadband and the skills to use broadband-enabled technologies  
20 are becoming more isolated from the modern American economy."<sup>21</sup> In addition, the FCC pointed  
21 out that "[t]he benefits of broadband and its centrality to economic life make it an essential element  
22

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23  
24 <sup>19</sup> American Recovery and Reinvestment Act of 2009, Pub. 1. No. 111-5 § 601(k)(2)(D), 123 STAT. 115, 516(2009).

25 <sup>20</sup> National Broadband Plan at p. 10.

26 <sup>21</sup> National Broadband Plan at p. 265.

1 of local and regional economic development in the 21<sup>st</sup> century."<sup>22</sup>

2  
3 From this base, the FCC then took steps to redefine access to broadband service in a Title II  
4 service. This means that the access to broadband service is now a telecommunications service for  
5 federal purposes.<sup>23</sup> This decision by the FCC has been upheld by the courts.<sup>24</sup>

6  
7  
8 Thus, adding "access to broadband service" to the definition of basic telephone service is  
9 consistent with federal policy.

10  
11 **THERE IS NO ADVERSE EFFECT ON THE OREGON UNIVERSAL SERVICE FUND.**

12 One of the questions to be addressed in a petition for rulemaking is what effects are caused  
13 by the change in the rule. The primary effect of the proposed change will be to recognize that  
14 telecommunications networks provide both voice service and access to broadband service. The  
15 change will recognize that access to broadband service is an important part of the  
16 telecommunications network. The change in the definition will reflect what is actually happening in  
17 the industry today.

18  
19  
20 There may be some concern that changing the definition will have an adverse effect on the  
21 Oregon Universal Service Fund (OUSF). In other words, the concern may be that adding "access to  
22

23  
24 <sup>22</sup> National Broadband Plan at p. 273.

25 <sup>23</sup> Cite

26 <sup>24</sup> Cite

1 broadband service" will cause the OUSF to increase in size. That is not the case. For the next five  
2 plus years, the parties have agreed to cap the size of the OUSF.<sup>25</sup> In fact, the Stipulation adopted by  
3 the Commission in Phase III of UM 1481 actually calls for the size of the OUSF to decrease each of  
4 the next five years.<sup>26</sup> In addition, adding "access to broadband service" as part of the definition of  
5 basic telephone service is simply recognition of what has already taken place. Under modern  
6 telecommunications standards, work that is done on the network infrastructure to provide voice  
7 service also has the ability to provide access to broadband service.  
8

9  
10 There should not be any significant upward pressure on the size of the OUSF by adding  
11 "access to broadband service" as part of the definition of basic telephone service. One reason for  
12 this is that adding the access to broadband service to the definition of basic telephone service does  
13 not contemplate the requirement to construct additional plant improvements that might affect the  
14 size of the fund. If a carrier cannot provide broadband to a particular location for a reason such as  
15 extraordinary long loop lengths, it can meet the definition by providing access through a contractor,  
16 such as a satellite broadband service. This is analogous to what happens today under the existing  
17 definition of basic telephone service for such things as access to directory assistance. Most  
18 companies, particularly the small rural companies, do not maintain their own directory assistance  
19 bureau. Instead, they contract with a directory assistance provider and allow the customers to have  
20 access to that provider to satisfy the "access to directory assistance" provision of the definition. The  
21  
22

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23  
24 <sup>25</sup> In the Matter of Public Utility Commission of Oregon Investigation of the Oregon Universal Service Fund, UM 1481  
Phase III, Order 16 093 (March 4, 2016) (Phase III Order).

25 <sup>26</sup> Phase III Order, Appendix A. at p. 1.

1 same would be the case for access to broadband service.

2  
3 REQUIREMENTS OF OAR 137-001-0070

4 1. Name and address of petitioner and other persons known to be interested in the rule: OAR  
5 137-001-0070(1).

6 OTA's name and address is as follows:

7 Oregon Telecommunications Association

8 777 13th Street SE, Suite 120

9 Salem, OR 97301-4038

10  
11 This rule is of general interest to many telecommunications providers. OTA suggests that  
12 the Commission reference the service list of UM 1481 as well as the general telecommunications  
13 list used by the Commission. The service list for UM 1481 is set out as Appendix B.

14  
15  
16 2. The language of the proposed rules: OAR 137-001-0070(1)(a).

17 This is addressed above and in Appendix C, which sets out the proposed language in "red-  
18 line" format.

19  
20 3. Facts or arguments in sufficient detail to show the reasons for and effects of adoption,  
21 amendment, or repeal of the rule: OAR 137-001-0070(1)(b).

22 This item is addressed above.



1 4. All propositions of law to be asserted by petitioner: OAR 137-001-0070(1)(c).

2 This item is addressed above.

3  
4 5. Options for achieving the existing rule's substantive goals while reducing the negative  
5 economic impact on business: OAR 137-001-0070(2)(a).

6 Since OAR 860-032-0190 is a definition, it does not have, by itself, a substantive goal.  
7  
8 However, the definition helps form the basis for advancing universal service in Oregon, among  
9 other factors, and helps define what is provided under affordable rates for telecommunications  
10 service. OTA believes that adding "access to broadband service" to the definition will help Oregon  
11 move forward to accomplish its policy goals for communications and economic development. Any  
12 possible negative economic impact on businesses is reduced through the functions and funding  
13 levels of the existing OUSF, which provides support for the existing network. In addition, as found  
14 by the Oregon Broadband Advisory Council in its Broadband Report, access to broadband service  
15 benefits businesses.

16  
17  
18 6. The continued need for the existing rule: OAR137-001-0070(2)(b).

19 The rule is still needed. OTA is not seeking repeal of the rule. Rather OTA requests an  
20 amendment to reflect changes in the telecommunications industry.

21  
22 7. The complexity of the existing rule: OAR 137-001-0070(2)(c).

23 From OTA's viewpoint, the existing rule is straightforward and not complex.  
24  
25

1 8. The extent to which the existing rule overlaps, duplicates or conflicts with other state or  
2 federal rules and with local government regulations: OAR 137-001-0070(2)(d).

3 Since the existing definition of basic telephone service in OAR 860-032-0190 addresses  
4 State goals of universal service and affordable rates, it does not overlap, duplicate, or conflict with  
5 other state or federal rules or with local government regulations.  
6

7  
8 9. The degree to which technology, economic conditions or other factors have changed in the  
9 subject area affected by the existing rule, since the agency adopted the rule: OAR 137-001-  
10 0070(2)(e).

11 This matter is discussed above.  
12

#### 13 RELATIONSHIP TO OTHER DOCKETS

14 This issue presented by this Petition is not before the Commission in any other docket.<sup>27</sup>  
15 The policy question of whether the definition of basic telephone service should be modified to add  
16 access to broadband service is not before the Commission for consideration in any pending docket.  
17 Funding issues for the OUSF have been resolved in UM 1481.<sup>28</sup>  
18  
19  
20  
21

22  
23 <sup>27</sup> OTA acknowledges that the issue had been considered in AR 577. However, that was before the FCC took action to  
24 redefine the language for federal universal service support. It was also before OUSF funding issues were dealt with in  
25 UM 1481.

<sup>28</sup> Cite.

1 CONCLUSION

2 Much has changed since the definition of basic telephone service was adopted in 2001.  
3 Today, "access to broadband service" is a basic function of the telecommunications network.  
4 Indeed, as pointed out earlier, according to the Oregon Broadband Advisory Council over 74  
5 percent of Oregonians currently have broadband access. That near ubiquity underscores that access  
6 to broadband service is a basic component of the telecommunications network. As such, much as  
7 access to long distance providers was recognized as a component of basic telephone service in  
8 2001, access to broadband service should be recognized as part of the definition of basic telephone  
9 service today. Such a result is consistent with the policies established by the Legislative Assembly  
10 and federal law. As a result, OTA respectfully requests that the Commission amend OAR 860-032-  
11 190 to include access to broadband service within the definition of basic telephone service.  
12

13 Respectfully submitted this 9th day of September, 2016.

14  
15  
16 By: 

17 RICHARD A. FINNIGAN, OSB No. 965357  
18 Attorney for the Oregon Telecommunications  
19 Association  
20  
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APPENDIX A

**Note – The following material is taken from DA 16-913 issued by the Federal Communications Commission. The "we" used below refers to the FCC.**

Whether a rate-of-return carrier chooses model-based support or remains on legacy mechanisms, it will be required to meet service obligations, adhere to reporting obligations, and retain records. We describe the requirements below.<sup>1</sup>

**A. Service/Deployment Obligations**

**1. Each model-based carrier must:**

- *Speed:* Model-based carriers must offer broadband service at actual speeds of at least 10 Mbps downstream/1 Mbps upstream to a defined number of locations. The defined number of locations will be specified in a future public notice.<sup>2</sup>
- *Latency:* Model-based carriers must offer service with latency suitable for real-time applications, including Voice over Internet Protocol.<sup>3</sup>
- *Data Usage:* Model-based carriers must offer a minimum usage allowance of 150 GB per month, subject to the requirement that usage allowances remain consistent with median usage in the United States over the course of the ten-year term.<sup>4</sup>
- In addition to offering 10/1 Mbps, model-based carriers must offer broadband speeds of at least 25 Mbps downstream/3 Mbps upstream to a certain number of "fully funded" locations.<sup>5</sup> Fully funded locations are those locations identified by the model where the average cost is above the funding benchmark and at or below the funding cap.<sup>6</sup>
  - The number of "fully funded" locations a model-based carrier is required to offer 25/3 Mbps to is based upon the state's population density.
    - Model-based carriers in a state with a density of more than 10 housing units per square mile are required to offer broadband speeds of at least 25 Mbps downstream/3 Mbps upstream to 75 percent of all fully funded

<sup>1</sup> *Small Entity Compliance Guide, Rate-of-Return Carrier Requirements for Recipient of High-Cost Universal Service Support*, DA 16-913 (rel. August 11, 2016).

<sup>2</sup> 47 C.F.R. § 54.308(a)(1).

<sup>3</sup> 47 C.F.R. § 54.308(a).

<sup>4</sup> 47 C.F.R. § 54.308(a)(l).

<sup>5</sup> 47 C.F.R. § 54.308(a)(l)(i)(A-C).

<sup>6</sup> 47 C.F.R. § 54.308(a)(l)(i).

1 locations in the state by the end of the ten-year period.<sup>7</sup>

2           ▪ Model-based carriers in a state with a density of 10 or fewer housing  
3 units per square mile are required to offer broadband speeds of at least 25  
4 Mbps downstream/3 Mbps upstream to 50 percent of all fully funded  
5 locations in the state by the end of the ten-year period.<sup>8</sup>

6           ▪ Model-based carriers in a state with a density of five or fewer housing  
7 units per square mile are required to offer broadband speeds of at least 25  
8 Mbps downstream/3 Mbps upstream to 25 percent of all fully funded  
9 locations in the state by the end of the ten-year period.<sup>9</sup>

10       • Model-based carriers must offer broadband speeds of at least 4 Mbps downstream/1  
11 Mbps upstream to a certain number of "capped locations."<sup>10</sup> Capped locations are those  
12 locations in census blocks for which the model calculates an average cost per location  
13 above the funding cap.<sup>11</sup>

14           ○ The number of "capped locations" a carrier is required to offer 4/1 Mbps to is  
15 also based upon the state's population density.<sup>12</sup>

16           ▪ Model-based carriers in a state with a density of more than 10 housing  
17 units per square mile, as specified by public notice at the time of  
18 election, are required to offer broadband speeds of at least 4 Mbps  
19 downstream/1 Mbps upstream to 50 percent of all capped locations in the  
20 state by the end of the ten-year period.<sup>13</sup>

21           ▪ Model-based carriers in a state with a density of 10 or fewer housing  
22 units per square mile, as specified by public notice at the time of  
23 election, are required to offer broadband speeds of at least 4 Mbps  
24 downstream/1 Mbps upstream to 25 percent of capped locations in the  
25 state by the end of the ten-year period.<sup>14</sup>

26           ▪ Model-based carriers shall provide to all other capped locations, upon  
reasonable request, broadband at actual speeds of at least 4 Mbps

<sup>7</sup> 47 C.F.R. § 54.308(a)(1)(i)(A).

<sup>8</sup> 47 C.F.R. § 54.308(a)(1)(i)(B).

<sup>9</sup> 47 C.F.R. § 54.308(a)(1)(i)(C).

<sup>10</sup> 47 C.F.R. § 54.308(a)(1)(ii)(A-C).

<sup>11</sup> 47 C.F.R. § 54.308(a)(1)(ii).

<sup>12</sup> 47 C.F.R. § 54.308(a)(1)(ii)(A-C).

<sup>13</sup> 47 C.F.R. § 54.308(a)(1)(ii)(A).

<sup>14</sup> 47 C.F.R. § 54.308(a)(1)(ii)(B).

downstream/1 Mbps upstream.<sup>15</sup>

- *Interim Buildout Obligations:* Model-based carriers must complete deployment to:
  - 40 percent of fully funded locations by the end of 2020;
  - 50 percent of fully funded locations by the end of 2021;
  - 60 percent of fully funded locations by the end of 2022;
  - 70 percent of fully funded locations by the end of 2023;
  - 80 percent of fully funded locations by the end of 2024;
  - 90 percent of fully funded locations by the end of 2025;
  - 100 percent of fully funded locations by the end of 2026.<sup>16</sup>
- By the end of 2026, carriers must complete deployment of broadband meeting a standard of at least 25 Mbps downstream/3 Mbps upstream to the required number of locations based on state level density as specified above.<sup>17</sup> Compliance shall be determined based on the total number of fully funded locations in a state.<sup>18</sup>
  - Model-based carriers that complete deployment to at least 95 percent of the requisite number of locations will be deemed to be in compliance with their deployment obligations.<sup>19</sup>
- *Failure to Meet Buildout Obligations:* Model-based carriers that do not buildout to the required number of locations will be subject to certain reporting requirements, support reductions, and even possible recovery of support.<sup>20</sup> The non-compliance measures that apply will depend on the size of the compliance gap (i.e., the number of required locations that the ETC fails to build out to by the applicable deadline).<sup>21</sup>

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<sup>15</sup> 47 C.F.R. § 54.308(a)(1)(ii)(C).

<sup>16</sup> 47 C.F.R. § 54.311(d).

<sup>17</sup> *Id.*

<sup>18</sup> *Id.*

<sup>19</sup> *Id.*

<sup>20</sup> 47 C.P.R. § 54.320.

<sup>21</sup> 47 C.P.R. § 54.320(d).

1           **2. Each legacy carrier must:**

- 2           • Legacy carriers must offer broadband service at actual speeds of at least 10 Mbps  
3           downstream/1 Mbps upstream, over a five-year period, to a defined number of unserved  
4           locations as specified by public notice, according to the following methodology:<sup>22</sup>
- 5                 ○ Legacy carriers with less than 20 percent deployment of 10/1 Mbps broadband  
6                 service in their study areas will be required to utilize 35 percent of their five-year  
7                 forecasted CAF-BLS support to extend broadband service where it is currently  
8                 lacking.<sup>23</sup>
- 9                 ○ Legacy carriers with more than 20 percent but less than 40 percent deployment of  
10                10/1 Mbps broadband service in their study areas will be required to utilize 25  
11                percent of their five-year forecasted CAF-BLS support to extend broadband  
12                service where it is currently lacking.<sup>24</sup>
- 13                ○ Legacy carriers with more than 40 percent but less than 80 percent deployment of  
14                10/1 Mbps broadband service in their study areas, as determined by the Wireline  
15                Competition Bureau, will be required to utilize 20 percent of their five-year  
16                forecasted CAF-BLS support to extend broadband service where it is currently  
17                lacking.<sup>25</sup>
- 18                ○ Legacy carriers will be required to buildout to a certain number of locations.  
19                That number will be determined by dividing the amount of support by a cost per  
20                location figure calculated pursuant to section 54.308(a)(2)(ii).<sup>26</sup>
- 21           • *Failure to Meet Buildout Obligations:* Legacy carriers that do not buildout to the required  
22           number of locations will be subject to certain reporting requirements, support reductions,  
23           and even possible recovery of support.<sup>27</sup> The non-compliance measures that apply will  
24           depend on the size of the compliance gap (i.e., the number of required locations that the  
25           ETC fails to build out to by the applicable deadline).<sup>28</sup>

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<sup>22</sup> 47 C.P.R. § 54.308(a)(2)(i).

22           <sup>23</sup> 47 C.P.R. § 54.308(a)(2)(i)(A).

23           <sup>24</sup> 47 C.P.R. § 54.308(a)(2)(i)(B).

24           <sup>25</sup> 47 C.P.R. § 54.308(a)(2)(i)(C).

25           <sup>26</sup> 47 C.P.R. § 54.308(a)(2)(ii).

26           <sup>27</sup> 47 C.P.R. § 54.320(d).

27           <sup>28</sup> *Id.*

1       **B. Restrictions on Deployment**

- 2       • Model-based carriers and legacy carriers may not deploy terrestrial wireline technology
- 3       in any census block if doing so would result in total support per line in the study area to
- 4       exceed \$250 per-line per-month.<sup>29</sup>
- 5       • Model-based carriers and legacy carriers may not deploy terrestrial wireline technology
- 6       to unserved locations to meet its obligations if doing so would exceed the per location/per
- 7       project capital investment allowance set forth in §54.303(f)(1).<sup>30</sup>
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24       <sup>29</sup> 47 C.F.R. § 54.308(a)(2)(iii)(A).

25       <sup>30</sup> 47 C.F.R. § 54.308(a)(2)(iii)(B).



APPENDIX B

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APPENDIX C

860-032-0190

**Definition of Basic Telephone Service**

(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) Broadband Service

(ab) Extended area service (EAS);

(bc) Long distance service;

(cd) Relay service for the hearing and speech impaired;

(de) Operator service such as call completion assistance, special billing arrangements, service and trouble assistance, and billing inquiry;

(ef) Directory assistance; and

(fg) 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;

1 (d) Business single party measured local exchange service, including local exchange  
usage;

2 (e) Private branch exchange (PBX) trunk service;

3 (f) Multiline or "complex" business service; and

4 (g) Public access line (PAL) service.

5  
6 (4) Services that are not considered basic telephone service include but are not  
limited to the following:

7 (a) Integrated Services Digital Network (ISDN) service;

8 (b) Digital subscriber line service, also known as xDSL service;

9 (c) Frame relay service;

10 (d) Centrex-type service;

11 (e) Private line or dedicated point-to-point service;

12 (f) Packet switched service;

13 (g) Foreign exchange service;

14 (h) Multiparty service, such as two-party and four-party suburban service; and

15 (i) Custom calling features, such as call waiting and caller ID.  
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