BEFORE THE PUBLIC UTILITY COMMISSION

OF OREGON

UM 1354

In the Matter of	)
QWEST CORPORATION	)
Petition for Approval of Price Plan Pursuant to ORS 759.255	)

OPENING TESTIMONY OF THE

CITIZENS' UTILITY BOARD OF OREGON

April 2, 2014

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My name is Bob Jenks, and my qualifications are listed in CUB Exhibit 101.

I. Introduction

CenturyLink QC ("CenturyLink" or "Company") filed its Amended Petition of Qwest Corporation for Revision of Price Plan[1] on January 23, 2014. Its proposal includes the removal of price caps for every service subject to price regulation.[2] Essentially, the Company seeks complete discretion to adjust prices, not subject to any pricing limits, and entirely without Commission oversight. For the reasons discussed more fully below, CUB believes that the Company's proposed price plan is not within the public interest, would not ensure that prices for telecommunications services are just and reasonable, and would actually prove to be disproportionately harmful to elderly customers and customers in less competitive areas.

[1] Qwest Corporation d/b/a CenturyLink QC.
[2] UM 1354 – Amended Petition of Qwest Corporation for Revision of Price Plan, Exhibit A.

II. The Public Interest Standard

ORS 759.255(1) provides the Commission with the authority to "approve a plan under which the commission regulates prices charged by the utility, without regard to the return on investment of the utility."[3] ORS 759.255(2) provides limitations on the Commission's authority:

> (2) Prior to granting a petition to approve a plan under subsection (1) of this section, the commission must find that the plan is in the public interest. In making its determination the commission shall consider, among other matters, whether the plan:
>
> (a) Ensures prices for telecommunications services that are just and reasonable;
>
> (b) Ensures high quality of existing telecommunications services and makes new services available;
>
> (c) Maintains the appropriate balance between the need for regulation and competition; and
>
> (d) Simplifies regulation.

The language of ORS 759.255 makes clear that the Commission, in choosing to approve a price plan, has the duty to actually regulate prices in order to ensure that the plan is in the public interest. The legislative history supports this interpretation of the statute, clearly indicating that the legislative intent was to provide the Commission with another option other than rate of return regulation, but regulation nonetheless.[4]

In summary, CUB does not believe that the Commission has the authority to approve a price plan that, in fact, contains no price caps and relies upon "competitive market forces…to ensure discipline over pricing is maintained…to ensure rates for

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[3] ORS 759.255(1).
[4] *See* UM 1354 – CUB/102/Jenks/1-8. CUB notes that it has provided what it considers to be the most relevant excerpts from the legislative history of SB 413(68th Oregon Legislative Assembly – 1995 Regular Session). The entire legislative history for SB 413 is available in hard copy from Oregon State Archives.

telecommunication services are just and reasonable,"[5] but will reserve these arguments for legal briefing.

If the Company wants unfettered discretion to adjust prices without Commission oversight, it should consider making a filing pursuant to ORS 759.052, as it did for basic business service in OPUC Docket UX 29.

Furthermore, from a logical standpoint, the Commission itself cannot ensure that the prices charged by CenturyLink are just and reasonable if it does not impose price caps on the services contained in CenturyLink's price plan. Additionally, the Commission has acknowledged that it must "balance the tasks of promoting competition and keeping residential rates affordable."[6] At best, if approved as currently written, CenturyLink's proposed price plan would put the Commission in the position of being reactive, rather than proactive, in ensuring that residential rates remain affordable. Putting the Commission in such a position is bad policy, as it places customers in the position of being harmed by unjust and unreasonable rates before the Commission is able to take action.

Such a scheme would also place the burden on non-utility parties, such as CUB, and Commission Staff to put forth a case demonstrating that rates have become unjust and unreasonable. This scenario is playing out in California right now, and consumers are in the position of paying potentially unjust and unreasonable rates.[7]

Finally, the Company has not proposed how it plans to meet the public benefit standard with its proposed plan, but should be required to do so by the Commission. The

[5] UM 1354 – CUB/103/Jenks/1.
[6] OPUC Order No. 01-810 at 62.
[7] *See* California PUC Docket No. C1312005. Docket Summary available at http://delaps1.cpuc.ca.gov/CPUCProceedingLookup/f?p=401:57:1338574953390::NO.

Company argues that the Commission should remove the "Network and Other Project Investments Commitment" from the price plan because its network and other project investments have been completed.[8] While CUB concedes that the specific commitments the Company made to ensure that its current price plan is in the public interest have been met, all subsequent price plans have a similar obligation. Customer benefits to offset rising telecommunications costs are not a one-time obligation for the Company. ORS 759.255 does not distinguish between a telecommunications utility's initial price plan and any subsequent price plans in its requirement that the plan must be in the public interest. The Company should be required to provide a public benefit offset for its proposed pricing flexibility in the price plan.

III. The Legacy ILEC System

The legacy Qwest phone system was built under the concept of rate of return regulation, including rate base. Similar to energy utilities, these legacy telecommunications utilities are subject to the regulatory compact. As utilities make investments on behalf of their customers, such as putting copper wire and poles in the ground, customers pay the utility the cost of that investment plus a reasonable rate of return. As a result of this exchange, the assets themselves become dedicated to customers for the duration of their useful lives. Essentially, those customers are buying the actual system from the utility. As each investment (i.e. rate base) is paid off, that asset "belongs" to the customers and is dedicated to customers for the remaining useful life of the asset. [9]

[8] UM 1354 - CTL/100/Felz/44, lines 17-24, lines 17-24.
[9] Through an economic interest, not an ownership interest.

Though some of the Company's infrastructure may have been replaced (i.e. poles, switches, etc.), a large portion of the infrastructure put in place during the period when the Company was rate of return ("RoR") regulated is still part of the Company's system and those assets remain dedicated to customers. With its current price plan proposal, the Company is essentially asking to take rate base assets to the competitive market with no benefit to the customers who paid for those assets. If the Company wanted to sell those assets to an affiliate, that affiliate would be required to pay the fair market value or cost, whichever is greater. For example, when Enron purchased Portland General Electric and moved PGE's wholesale trading floor from a regulated activity to an unregulated activity, Enron was required to compensate customers.[10] Though CUB recognizes that the Company has not been subject to RoR regulation since the late 1990s, the infrastructure put in place while the Company was RoR regulated must still provide value to the customers that paid for it. That value comes by providing basic local phone service to residential customers at capped rates—without price regulation by the Commission, the Company is violating the regulatory compact.

CenturyLink, for example, owns [redacted] switches (including remote switches) in Oregon as of July 22, 2010.[11] Of those, [redacted] were installed prior to December 29, 1999, the date that Qwest elected to be subject to price cap regulation, rather than rate of return regulation.[12] CenturyLink also owns 435 utility poles that were installed prior to 1996,[13]

[10] The compensation was $105 million but included compensation for the use of PGE's name, reputation, business relationships, expertise, good will and other intangibles, as well as the trading floor, OPUC Order 97-198 Appendix A, page 6.
[11] UM 1354 – CUB/CONFIDENTIAL 104/Jenks/1-2 (Confidential Attachment to Staff DR 125 in docket UM 1354).
[12] *Ibid.*
[13] UM 1354 – CUB/105/Jenks/1.

and 79,847,604 feet of copper cable that was installed prior to 1996.[14] These assets are part of the legacy Qwest system, and should therefore continue to serve customers for the remainder of their useful lives.

IV. The True Scope of Competition

The Company spends a great deal of its testimony discussing the vast number of competitors it is facing in Oregon. Generally, the Company argues that the competitive landscape in Oregon is so robust that there is enough competition throughout every single one of the Company's 82 wire centers to warrant a Commission finding that the market will be a more efficient price regulator than the Commission itself. However, even assuming that the Company's arguments about the number and viability of competitors in the marketplace are true, the Company fails to appreciate that the mere existence of competitors for voice service does not, in and of itself, mean that all of the customers in its service territory are willing or able to participate in the allegedly competitive marketplace

A. Defining Competition

Competition is not just about the number of competitors out there. The very underpinning of competition is the existence of consumers that participate in the marketplace. With regard to CenturyLink, the Company is actually involved in two telecommunications markets—the competitive market, which is where most customers participate and which is not regulated by this Commission, and the legacy monopoly market. In this case, CUB's concern is for the residential consumers that are participating in the legacy monopoly market, who are not exercising their consumer

[14] UM 1354 – CUB/106/Jenks/1.

choice in the competitive marketplace for residential voice service—either because they are not aware of their choices, or because they simply do not have other comparable choices to the service provided by CenturyLink. If price caps are removed from CenturyLink's price plan, these customers would be subject to monopoly abuse because the PUC regulation that has protected them for years will no longer be in place.

Certainly, there are people who are leaving CenturyLink,[15] and these customers are part of the competitive marketplace, but this begs the question—who are they? And more importantly, who does that leave behind? The availability of choices does not mean that all customers will be willing or able to enter the competitive marketplace, nor does it guarantee that customers in all areas, especially remote areas, have access to suitable voice alternatives. Under traditional price cap regulation–unlike what CenturyLink is proposing in this case—customers who are not willing or able to be part of the competitive marketplace are protected. Prices are set at levels that do not interfere with the competitive market, which can be seen by the fact that each year, there are fewer residential customers that take the basic residential phone service subject to price cap regulation by the Commission.

i. Elderly

According to a recent survey by AARP, 70% of Americans ages 40 and older currently have landline telephone service in their homes, with over half of those landline users utilizing traditional copper-wire landline service technology.[16] Additionally, the majority (80%) of landline users have used this type of phone service for 15 years or

[15] *See* UM 1354 – CTL/100/Felz/5, lines 13-16.

[16] AARP National Survey of Residents Age 40+: Summary of Opinions on Telecommunications Issues at pg. 3. Accessed at http://www.aarp.org/content/dam/aarp/research/surveys_statistics/general/2013/AARP-National-Survey-of-Residents-Age-40-Plus-Summary-of-Opinions-on-Telecommunications-Issues-AARP-rsa-gen.pdf.

more; with an additional 15% reporting that they have used landline phone service for "As long as I can remember."[17] Of the respondents to the AARP survey, almost 75% of landline users either strongly or somewhat agreed with having consumer protections apply to landline service, regardless of the type of technology.[18]

The Company argues that "a significant number of telephone customers have 'cut the cord,' relying solely on wireless service to meet their voice telecommunications needs."[19] However, based on information reported by the Center for Disease Control and Prevention's National Health Interview Survey (NHIS), "[t]he percentage of adults living in households with only wireless telephones decreased as age increased beyond 35 years";[20] for those adults aged 45-64, only 28.4% live in households with only wireless telephone and that number dramatically decreases to 11.6% for those aged 65 and over.[21] This data suggests that for populations aged 45 and above, wireless phone service is not seen as a *substitute* for landline service. According to the AARP study, "When asked to think about the next 12 months and rate the likelihood of disconnecting their landline service in favor of using cellular or wireless service for all of their telephone needs, *almost 80 percent said they were not too or not at all likely to disconnect landline service*."[22] When asked why these respondents were very likely to keep their landline

[17] *Ibid.*
[18] AARP National Survey of Residents Age 40+: Summary of Opinions on Telecommunications Issues at pg. 7. Accessed at http://www.aarp.org/content/dam/aarp/research/surveys_statistics/general/2013/AARP-National-Survey-of-Residents-Age-40-Plus-Summary-of-Opinions-on-Telecommunications-Issues-AARP-rsa-gen.pdf
[19] UM 1354 – CTL/100/Felz/33, lines 15-18.
[20] Wireless Substitution: Early Release of Estimates from the National Health Interview Survey, July-December 2012, at pg. 2, Released 6/2013. Accessed at http://www.cdc.gov/nchs/data/nhis/earlyrelease/wireless201306.pdf.
[21] *Ibid.*
[22] AARP National Survey of Residents Age 40+: Summary of Opinions on Telecommunications Issues at pg. 6. (emphasis added) Accessed at http://www.aarp.org/content/dam/aarp/research/surveys_statistics/general/2013/AARP-National-Survey-of-Residents-Age-40-Plus-Summary-of-Opinions-on-Telecommunications-Issues-AARP-rsa-gen.pdf

service, respondents replied "in case of emergency" and "wireless service is not dependable or available where they live."[23]

ii. Customers in remote areas

As conceded by CenturyLink, "*[m]ost* of [the] CLECs are primarily focused on serving business customers."[24] In fact, CenturyLink did not provide a single example in its testimony of a CLEC with which it is competing for residential voice service—all of its examples focused on government customers or various classes of business customers.[25] In its response to CUB Data Request 14, the Company provided an attachment that provides a list of CenturyLink QC voice competitors by wire center.[26] However, of the 21 CLECs listed on the Company's response, only 2 provide traditional wireline service to customers, and in very limited geographic areas.[27] An additional 3 provide voice over internet protocol ("VoIP") service to residential customers, but require that the customer to purchase internet service from either their own company or another internet provider.[28] As such, it appears that any alternatives available to the majority of customers in CenturyLink QC's territory come in the form of VoIP and wireless.

With regard to VoIP service, CenturyLink alleges that "cable telephony service is available to customers in 79 of CenturyLink QC's 82 wire centers in Oregon."[29]

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[23] *Ibid.*
[24] UM 1354 - CTL/100/Felz/24, lines 12-13.
[25] *See* UM 1354 – CTL/100/Felz/24-29.
[26] UM 1354 – CUB/107/Jenks/1-4.
[27] Eastern Oregon Telecom and MINet provide traditional wireline voice service to residential customers, which are each located in 2 of CenturyLink QC's wire centers—meaning that residential customers in the Dallas, Hermiston, Independence and Pendleton wire centers have one CLEC that provides traditional, standalone voice service.
[28] Douglas Fast Net, Pendleton Fiber Company, and Quantum Communications all provide voice service to residential customers via VoIP, meaning that residential customers in the Bend, La Pine, Madras, Oakland-Sutherlin, Pendleton, Prineville, Redmond, Roseburg, Sisters, Winston may have access to residential VoIP service. Douglas Fast Net and Pendleton Fiber Company require customers to bundle voice service with internet offerings.
[29] UM 1354 – CTL/100/Felz/15, lines 25-26.

However, the Company's claim of availability is somewhat misleading. First, the fact that a cable provider may make service available within any one of CenturyLink's wire centers does not mean that broadband service is ubiquitously available within that wire center. This is made clear by the Oregon Broadband Mapping Project (Beta).[30] In more remote areas, customers may not have the option to have broadband service extended to their homes because the cable company does not provide service at the customer's residence—presumably because it is not financially advantageous to do so. This can mean that certain neighborhoods or areas have infrastructure in place to provide service to those who call and request VoIP or other cable service, while other neighborhoods, even within a few miles of each other, do not have the necessary infrastructure and therefore residents who live in those areas are not able to take broadband service from the cable provider—even if they want to. Unlike the case with ILECs, cable companies do not necessarily have carrier of last resort ("COLR") obligations, and are therefore not required to provide service in areas that are less financially desirable. This issue is of particular consequence for "over-the-top" VoIP services, such as those offered by Vonage, Google and MagicJack, which "rely on a third-party broadband connection, and transmit calls over the public internet."[31] If customers do not have independent access to broadband, they cannot utilize these services.

Second, a customer could only subscribe to voice service from a cable provider if his or her home was already wired for service from that provider—or if the customer were willing and able to pay sometimes hefty installation and equipment rental fees. For

[30] *See* https://broadband.oregon.gov/StateMap/. The map is interactive, and allows the user to select "No Service Reported" to see a map of Oregon showing the areas in which broadband service is not reported. UM 1354 – CUB/108/Jenks/1 contains a screen shot of this map.
[31] UM 1354 – CTL/100/Felz/37, lines 24-25.

elderly customers or those on a fixed income, paying such fees in hopes of reducing their monthly home phone bill may not be an option.

Finally, although Comcast offers standalone VoIP phone service, it does not appear that all other VoIP providers have a similar standalone offering. For example, as CenturyLink states, Charter does offer a package of unlimited voice service with several calling features[32]—but CenturyLink fails to make clear that Charter customers *must* purchase either cable TV or internet in order to subscribe to voice service.[33] Charter does not offer standalone voice service, which certainly undercuts the notion that its voice services are truly in competition with the Company's voice services on a standalone basis. This is not surprising. The competitive marketplace is primarily for bundled services, which combine voice and data. Stand alone voice landline service is not a competitive product.

With regard to wireless, the Company states that "there are very few areas within CenturyLink QC wire center boundaries where there is no wireless coverage, and this occurs only in the most sparsely populated areas."[34] However, just because there may be some coverage as shown by wireless maps, it does not mean that coverage is universally available within the wire center. It is not uncommon for maps provided by wireless carriers to show coverage in a particular area, but for customers to report that they receive little to no coverage in those same areas, including while inside their homes.[35]

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[32] UM 1354 – CTL/100/Felz/21, lines 2-4.
[33] *See* https://www.charter.com/browse/phone-service/phone.
[34] UM 1354 – CTL/100/Felz/30, lines 9-11.
[35] For example, the website www.opensignal.com relies upon data collected by users of its Android and iPhone applications to create a comprehensive database of cell phone towers, cell phone signal strengths, and Wi-Fi access points around the world. The interactive map on this website may be compared to the maps provided by CenturyLink in CTL/107/Felz/3-8.

B. Suitability of competitive alternatives

CenturyLink also alleges that cable telephony service for residential customers is functionally equivalent to and substitutable for the services offered by the Company. CenturyLink, as discussed above, also argues that wireless service is a competitive alternative to traditional copper landline service. However, the availability of alternatives does not mean that all are created equal. Several customers, especially elderly customers and those in remote areas, as discussed above, rely on traditional landline service for a number of reasons and do not believe that wireless and/or VoIP service is a comparable alternative to their traditional wireline service.

While copper landlines cannot absolutely guarantee reliable service in the case of an emergency, when phone lines remain functional during a natural disaster or power outage, copper landlines have been proven to be more reliable than utilizing wireless or VoIP for phone service. This has also been the case during prolonged power outages when digital phone service relies on electric power for functionality. As Comcast itself concedes, "Service (including 911/emergency services) may not function after an extended power outage."[36] As a practical example, some victims of Hurricane Sandy resorted to using payphones and regular landline service when wireless and cell phone service were unreliable.[37] When the power goes out, cell phone towers and wireless networks that depend on the grid lose functionality needed for communication. In this case, there is no substitute for the reliability and vital emergency services provided by traditional copper networks—a fact that is of vital importance to some customers.

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[36] http://www.comcast.com/home-phone-service.html at "Details and Restrictions." Accessed on March 28, 2014.

[37] https://www.freepress.net/blog/2012/11/21/why-did-wireless-networks-fail-after-hurricane-sandy

V. Conclusion

CenturyLink used a lot of paper telling the Commission that there is robust competition in Oregon and that its line losses have continued to decline for the past several years. It also advises the Commission that allowing it unfettered discretion to raise prices for residential voice service and other calling features will serve to make CenturyLink a more attractive option in the competitive marketplace. This is incorrect. Not only is CenturyLink's proposal to remove price caps from its price plan contrary to current law and sound policy, it is also harmful to those customers who, for whatever reason, are not part of the competitive marketplace and continue to rely on the protections afforded by Commission oversight of prices. It is, therefore, CUB's position that CenturyLink's currently proposed price plan does not meet the statutory requirements, will not lead to just and reasonable rates, and is not in the public interest. CUB, therefore, respectfully requests that the Commission not approve CenturyLink's price plan, as currently proposed.

WITNESS QUALIFICATION STATEMENT

NAME: Bob Jenks

EMPLOYER: Citizens' Utility Board of Oregon

TITLE: Executive Director

ADDRESS: 610 SW Broadway, Suite 400
Portland, OR 97205

EDUCATION: Bachelor of Science, Economics
Willamette University, Salem, OR

EXPERIENCE: Provided testimony or comments in a variety of OPUC dockets, including UE 88, UE 92, UM 903, UM 918, UE 102, UP 168, UT 125, UT 141, UE 115, UE 116, UE 137, UE 139, UE 161, UE 165, UE 167, UE 170, UE 172, UE 173, UE 207, UE 208, UE 210, UG 152, UM 995, UM 1050, UM 1071, UM 1147, UM 1121, UM 1206, UM 1209, UM 1355, UM 1635, UE 233, and UE 246. Participated in the development of a variety of Least Cost Plans and PUC Settlement Conferences. Provided testimony to Oregon Legislative Committees on consumer issues relating to energy and telecommunications. Lobbied the Oregon Congressional delegation on behalf of CUB and the National Association of State Utility Consumer Advocates.

Between 1982 and 1991, worked for the Oregon State Public Interest Research Group, the Massachusetts Public Interest Research Group, and the Fund for Public Interest Research on a variety of public policy issues.

MEMBERSHIP: National Association of State Utility Consumer Advocates
Board of Directors, OSPIRG Citizen Lobby
Telecommunications Policy Committee, Consumer Federation of America
Electricity Policy Committee, Consumer Federation of America

BILL NO: SB 413
HS COMMERCE, BUSINESS SUB
EXHIBIT: A
DATE: 5-2-95 PAGES: 6
SUBMITTED BY: Chuck Leonard

SB 413

TESTIMONY BEFORE THE HOUSE SUBCOMMITTEE ON BUSINESS
MAY 2, 1995

CHUCK LENARD
VICE PRESIDENT - OREGON, U S WEST COMMUNICATIONS

Thank you Mr. Chairman and members of the committee for the opportunity to appear here today representing U S WEST in support of Senate Bill 413. For the record, my name is Chuck Lenard and I am the Vice President - Oregon for U S WEST Communications.

Over the past ten years, the Oregon Legislative Assembly has on three occasions found it appropriate to make significant statutory modifications in order to facilitate the transition of telecommunications regulation to be consistent and compatible with the competitiveness of the telecommunications marketplace. That marketplace is on the verge of major new changes and, as a result, we are here today to request that the Public Utility Commission be granted the ability to modify regulation in a way which we believe will better meet the needs of the public and the industry in the future.

Senate Bill 413 is, as I suggested, enabling legislation. In and of itself, the measure doesn't change the rules. Rather, it authorizes the Oregon Public Utility Commission to change the rules if they find that doing so is in the public interest. That's the approach the legislature took in 1985 in adopting HB 2200, in 1987 with the passage of House Bill 2656, and most recently in 1993 with House Bill 2203. Because it will be up to the Commission to determine whether the newly allowed form of regulation is in the public interest, it is not necessary for the Legislature to conclude that a change in regulation is necessarily the right thing to do -- only that it may be.

Having said that, I would like to explain the change in regulation this bill would allow. Today, utility regulation in this state is generally referred to as being earnings or rate of return based. Very simply that means that the appropriateness of prices is determined by looking at earnings. If earnings are considered to be too high, then prices are reduced and if earnings are considered to be too low, prices can be increased.

Unfortunately, while I can describe the concept simply, there really isn't anything simple about rate of return regulation. In fact, it is extremely cumbersome and will be made much more so by the complexities of our increasingly competitive environment and rapidly changing technologies. In 1991 the Public Utility Commission did authorize for U S WEST an alternative form of rate of return regulation which provided some relief from the complexities of the rate of return approach. While this alternative regulation plan has been relatively well suited to the early 90s, the fact that it is still rate of return based presents some problems for the future.

Senate Bill 413 would authorize the Public Utility Commission to replace rate of return regulation with what we refer to as price limit regulation. The price limit approach is relatively simple. The Commission determines maximum allowable prices -- that is, price limits or price caps -- based on existing prices and other factors such as prevailing prices in the market. This is much less complicated than the rate of return approach which involves lengthy studies and debate over appropriate depreciation rates and which expenses and investment should or should not be included in the determination of earnings. With price limit regulation the focus is directly on what customers are really concerned about -- the prices they pay. We believe the change has the potential to save regulators and ourselves considerable time and resources.

As nice as it is to think about those savings, there are some other reasons to position ourselves for this change which I believe are even more significant. First of all, as we transition to a competitive environment, earnings based regulation, which was designed to operate in a monopoly environment, just doesn't work well. Recall that I indicated that if a company under rate of return regulation isn't earning adequately, they are allowed to increase their rates in order to improve the earnings. Now imagine in a competitive environment that the local telephone company is losing some of its customers and, as a result, its earnings are declining. Raising prices hardly seems like the solution. In a competitive environment it will only make the situation worse. So as telecommunications markets become increasingly competitive, the ability of lawmakers and regulators to assure telephone companies of an acceptable earnings level really disappears........unless,....

adequate earnings can be achieved by increasing prices where competition has not yet occurred. Since competition occurs first in metropolitan areas, that means price increases for rural customers and, in fact, it may be only a short-term solution because it will likely hasten the entry of competitors able to undercut the increased prices. The risk of all this can be eliminated through a price regulation plan in which rural as well as urban customers will fully understand where prices are capped. Uncertainty as to the impact of market changes on price are eliminated.

While there are numerous reasons to move toward price regulation, I want to share just one more with you because I think it is very important to this state. The change in regulation which this bill would allow can greatly increase the incentive for telecommunications companies to invest in state of the art infrastructure in Oregon. The reason is simple. Under rate of return regulation, there is a definite limit on what can be earned from existing or new investment. On the other hand, as I indicated earlier, where competition exists, there really is no way for government to assure that earnings do not decline to below acceptable levels. There is, in effect, a ceiling but no floor and that's not a very attractive environment to invest in. The incentive for a company to risk millions to provide information highway type services to schools, libraries, businesses, and homes, will be much greater if earnings caps are eliminated and price caps are substituted. Customers will be protected from unreasonable prices and will be able to avail themselves of the many new services which we are hearing about daily.

Price regulation really isn't a new idea but it has caught on lately as the way to beneficially adapt regulation to the quickly evolving telecommunications marketplace. There are now 14 states which have adopted price regulation and there are legislative or commission actions pending in 16 more states to make it happen.

I am obviously a believer in this new approach to regulation but, again, it isn't necessary for you to conclude today or in this legislative session that it is absolutely the right thing - only that it may be and that it is appropriate to enable the PUC to make that decision.

Thank you very much.

PRICE REGULATION STATUS

Price Regulation Plans in Effect

- Delaware
- Illinois
- Indiana
- Kansas
- Michigan
- Missouri
- Nebraska
- North Dakota
- New York (Rochester)
- Ohio
- Pennsylvania
- Virginia
- West Virginia
- Wisconsin

Price Regulation Plans Pending Approval

- Alabama
- Arizona
- Georgia
- Iowa
- Kentucky
- Louisana
- Maine
- Massachusetts
- Mississippi
- Nevada
- New York (NYNEX)
- Utah
- Washington
- Washington, D.C.
- Wyoming

Alternative Rate of Return Regulation

- Alaska
- California
- Colorado
- Florida
- Idaho
- Maryland
- Minnesota
- New Jersey
- Oregon
- Rhode Island
- Texas

Traditional Rate of Return Regulation

- Arkansas
- Connecticut
- Hawaii
- Montana
- New Hampshire
- New Mexico
- North Carolina
- Oklahoma
- South Carolina
- South Dakota
- Vermont

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Jenks/7

BILL NO: SB 413
HS COMMERCE, BUSINESS SUB
EXHIBIT: C
DATE: 5-2-95 PAGES: 2
SUBMITTED BY: Mike Kane

BEFORE THE HOUSE
COMMITTEE ON COMMERCE
SUBCOMMITTEE ON BUSINESS

Senate Bill 413

Testimony of Mike Kane
Assistant Commissioner, Utility Program
Public Utility Commission of Oregon

May 1, 1995

The Commission supports the adoption of SB 413.

This bill will give the Commission more flexibility regulating telecommunications utilities in a rapidly changing telecommunications environment and in achieving its legislative mandate. ORS 759.015 states "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." Increasing competition for various kinds of telecommunications services calls for regulatory flexibility in achieving this statutory balance.

The Commission currently has some flexibility in regulating telecommunications utilities through legislation that was adopted in 1987. Using this authority, the Commission has been regulating U S WEST Communications under an Alternative Form of Regulation which is a modified form of price regulation. This option has given the utility greater pricing flexibility while protecting consumers of essential services.

SB 413 would give the Commission greater discretion in approving new forms of regulation with price cap features. Specifically, it would enable the Commission to authorize a price regulation plan without regard to the utility's return on investment. This is requested by U S WEST to enable the company to better respond to the current competition trends in the industry. While the Commission supports the greater flexibility, we cannot say at this time how we will implement this legislation if adopted.

The current price cap plan will expire on January 1, 1997. Prior to that time, we will be analyzing how the current plan has operated and whether the plan has made our ratepayers better off as they would have been under pure rate-of-return regulation. Also, at the beginning of 1996, we will be embarking upon a year-long proceeding to determine whether to continue the current plan for U S WEST, or to approve some other form of regulation that would be in the public interest. Therefore, I cannot predict at this time whether, or the extent to which, we would be using this legislation to approve a new form of regulation for U S WEST in 1997. The outcome will ultimately be determined in a proceeding which we will conduct in 1996, and will be based upon a number of considerations relating to the public interest including reasonable prices and service quality. It will also be dependent upon the input we receive from other parties that will be affected by such a plan, including customers of the utility.

Nevertheless, we support this legislation in the event that we would need the additional flexibility to approve an appropriate alternative form of regulation that would be in the public interest in the years ahead. With this understanding the Commission endorses SB 413.

OREGON
Docket No. UM 1354
Response to PUC Staff Data Request
Respondent: John Felz
Response Date: July 2, 2013

Data Request PUC STAFF No. 46

CenturyLink QC proposes to remove the current price plan caps on non-recurring charges for primary line basic services. Please explain how this is in the public interest.

RESPONSE:

Per ORS 795.255 in evaluating CenturyLink QC's proposed modifications to its Price Plan, the Commission must find that the plan is in the public interest and shall consider, among other matters, whether the plan:

a. Ensures prices for telecommunications services that are just and reasonable:
c. Maintains the appropriate balance between the need for regulation and competition;

As demonstrated in CenturyLink's Price Plan Performance Report filed on November 13, 2012, CenturyLink QC is facing ever increasing competitive pressure from alternative providers, including cable, wireless and VoIP providers who continue to gain market share. As a result, competitive market forces can be relied upon to ensure discipline over pricing is maintained and the artificial pricing constraints that only CenturyLink QC is currently subject to are unnecessary to ensure rates for telecommunications services are just and reasonable. Further, those competitive market forces render the need for price caps for this service moot.

OREGON
Docket No. UM 1354
Response to PUC Staff Data Request
Respondent: John Felz
Response Date: July 2, 2013

Data Request PUC STAFF No. 47

CenturyLink QC proposes to remove the current price plan caps on primary line basic service for business customers. Please explain how this is in the public interest.

RESPONSE:

Please see response to Staff DR 46.

OREGON
Docket No. UM 1354
Response to PUC Staff Data Request
Respondent: John Felz
Response Date: July 2, 2013

Data Request PUC STAFF No. 48

CenturyLink QC proposes to change how Business Basic Services in Rate Group 3 are regulated. Currently, the rates for these services are established under ORS 759.425(2)(a). Please explain how this change is in the public interest.

RESPONSE:

Please see response to Staff DR 46.

OREGON
Docket No. UM 1354
Response to PUC Staff Data Request
Respondent: John Felz
Response Date: July 2, 2013

Data Request PUC STAFF No. 49

CenturyLink QC proposes to remove the current price plan caps on Public Access Lines (PAL) service. Please explain how this is in the public interest.

RESPONSE:

Please see response to Staff DR 46.

OREGON
Docket No. UM 1354
Response to PUC Staff Data Request
Respondent: John Felz
Response Date: July 2, 2013

Data Request PUC STAFF No. 50

CenturyLink QC proposes to remove the current price plan caps on Toll Restriction service. Please explain how this is in the public interest.

RESPONSE:

Please see response to Staff DR 46.

OREGON
Docket No. UM 1354
Response to PUC Staff Data Request
Respondent: John Felz
Response Date: July 2, 2013

Data Request PUC STAFF No. 51

CenturyLink QC proposes to remove the current price plan caps on Call Trace services *(i.e.,* *59). Please explain how this is in the public interest.

RESPONSE:

Please see response to Staff DR 46.

OREGON
Docket No. UM 1354
Response to PUC Staff Data Request
Respondent: John Felz
Response Date: July 2, 2013

Data Request PUC STAFF No. 52

CenturyLink QC proposes to remove the current price plan caps on Unlisted Numbers and Directory Listings and may discontinue directory listings with basic service. Please explain how this is in the public interest.

RESPONSE:

Please see response to Staff DR 46.

OREGON
Docket No. UM 1354
Response to PUC Staff Data Request
Respondent: John Felz
Response Date: July 2, 2013

Data Request PUC STAFF No. 53

CenturyLink QC proposes to remove the current price plan caps on intrastate DS- 1 service. Please explain how this is in the public interest.

RESPONSE:

Please see response to Staff DR 46.

CUB Exhibit 104 is confidential pursuant to Protective Order No. 08-116. Non-confidential versions of Exhibit 104 will be mailed to those parties who have signed the protective order.

Oregon
Docket No. UM 1354
Response to CUB Data Request No. 20
Respondent: John Felz
Response Date: March 31, 2014

CUB -20

How many utility poles, owned by CenturyLink, were put in the ground prior to 1996?

RESPONSE:

CenturyLink QC objects to this request on the grounds that is unduly burdensome, overly broad, would require a special study and is not narrowly tailored to lead to the discovery of relevant or otherwise admissible information. Notwithstanding and without waiving this objection, CenturyLink QC provides the following response.

Based on a review of its continuing property records, CenturyLink QC identified 435 utility poles owned by the company that were installed prior to 1996.

Oregon
Docket No. UM 1354
Response to CUB Data Request No. 21
Respondent: John Felz
Response Date: March 31, 2014

CUB -21

How many feet of copper wire were put into the ground prior to 1996?

RESPONSE:

CenturyLink QC objects to this request on the grounds that is unduly burdensome, overly broad, would require a special study and is not narrowly tailored to lead to the discovery of relevant or otherwise admissible information. Notwithstanding and without waiving this objection, CenturyLink QC provides the following response.

Based on a review of its continuing property records, CenturyLink QC identified 79,847,604 feet of copper cable that was installed prior to 1996.

Oregon
Docket No. UM 1354
Response to CUB Data Request No. 14
Respondent: John Felz
Response Date: March 31, 2014

CUB -14

Please provide a complete list of voice competitors by wire center, including the type of voice service provided by each competitor.

RESPONSE:

Please see Attachment CUB 14 for an identification of voice competitors by CenturyLink QC wire center.

In addition to the CLEC, cable and wireless competitors listed on the attachment, there are a large number of competitors who make voice service available via an "over the top" VoIP service. These companies offer service that can be used over any high speed internet connection which is widely available across CenturyLink QC's service area. Companies offering VoIP services in Oregon include Vonage, Lingo, 8x8, MagicJack, VoIP.com, viatalk, Intalk, PhonePower, CallCentric, VoIPYourLife, Phone.com, AXVoice, VoIPo, ITP and others.

CenturyLink QC is also aware that CUB maintains a list of providers on its "CUBConnects website (http://cubconnects.org/). CenturyLink QC takes no position on the information provided on this website.

CenturyLink QC Voice Competitors by Wire Center

	CLECs																					Cable								Wireless					
Wire Center	AT&T	Verizon	Windstream	Hunter Communications	Cal-Ore Communications Inc	CoastCom, Inc	Covad Communications Con	Douglas Fast Net	Eastern Oregon Telecom	Integra Telecom	Level 3 Communications, LLC	LS Networks	MINet	New Edge Networks	Pendleton Fiber Company	Quantum Communications	Rio Networks	SawNet	TW Telecom of Oregon LLC	XO Communications Service	Zayo Group LLC	BendBroadband	Cableone	Chambers Cable	Charter Communications Inc	Comcast	Country Vision Cable	Crestview Cable Communica	Wave Broadband	AT&T Wireless	Verizon Wireless	Sprint	T-Mobile	Cricket	US Cellular
ADAIR										X																X				X	X	X	X	X	P
ALBANY	X	X								X		X		X							X					X				X	X	X	X	X	P
ASHLAND	X			X										X																X	X	X		X	X
ASTORIA						X								X																X	X		X		P
ATHENA																					X									X	X	X	X	X	X
BAKER												X		X							X									X	X		X		X
BAKER-SUMPTER																														P					
BEND	X	X								X	X	X		X		X	X			X	X	X		X				X		X	X	X	X	X	X
BLACK BUTTE										X												X									X				X
BLUE RIVER										X				X												X				X	X				P
BURLINGTON		X					X			X											X					X				X	X	X	X	X	P
CANNON BEACH																														X	X	X	X	X	P
CENTRAL POINT		X								X				X			X													X	X	X	X	X	X
CORVALLIS	X	X								X		X		X												X				X	X	X	X	X	P
COTTAGE GROVE	X									X				X												X				X	X	X	X	X	P
CULP CREEK										X																							X		P
CULVER										X				X							X							X		X	X	X	X	X	X
DALLAS		X								X			X	X												X				X	X	X	X	X	P
EUGENE 10TH AVE	X	X								X	X	X		X			X			X	X					X				X	X	X	X	X	P
EUGENE RIVER ROAD	X	X								X	X			X			X				X					X	X			X	X	X	X	X	P
FALLS CITY										X				X																X	X				
FLORENCE						X						X		X																X	X	X	X	X	P
GOLD HILL										X																				X	X	X	X	X	
GRANTS PASS		X		X						X		X		X			X														X	X	X	X	X
HERMISTON									X		X	X		X							X									X	X	X	X	X	X
INDEPENDENCE										X		X	X	X												X			X	X	X	X	X	X	P
JACKSONVILLE										X				X																X			X		X
JEFFERSON												X									X					X			X	X	X	X	X	X	P
JUNCTION CITY										X				X							X					X	X			X	X	X	X	X	P
KLAMATH FALLS	X	X		X	X						X			X							X									X	X	X	X	X	X
LA PINE										X						X												X		X	X	X	X	X	
LAKE OSWEGO	X	X					X			X				X					X	X	X					X				X	X	X	X	X	P

P = Wireless Partner Provides Service

CenturyLink QC Voice Competitors by Wire Center

	CLECs																					Cable								Wireless					
Wire Center	AT&T	Verizon	Windstream	Hunter Communications	Cal-Ore Communications Inc	CoastCom, Inc	Covad Communications Com	Douglas Fast Net	Eastern Oregon Telecom	Integra Telecom	Level 3 Communications, LLC	LS Networks	MINet	New Edge Networks	Pendleton Fiber Company	Quantum Communications	Rio Networks	SawNet	TW Telecom of Oregon LLC	XO Communications Service	Zayo Group LLC	BendBroadband	Cableone	Chambers Cable	Charter Communications Inc	Comcast	Country Vision Cable	Crestview Cable Communica	Wave Broadband	AT&T Wireless	Verizon Wireless	Sprint	T-Mobile	Cricket	US Cellular
LEABURG																										X				X	X		X		P
LOWELL														X							X									X	X	X	X	X	P
MADRAS														X		X					X							X		X	X	X	X	X	X
MAPLETON														X																X	X				P
MARCOLA														X												X				X	X		X		
MEDFORD	X	X		X						X		X		X			X													X	X	X	X	X	X
MILTON-FREEWATER																					X									X	X	X	X	X	X
MILWAUKIE	X	X					X			X				X					X	X	X					X				X	X	X	X	X	P
NEWPORT						X						X		X															X	X	X	X	X	X	P
NORTH PLAINS		X					X			X									X							X				X	X	X	X	X	P
NYSSA																					X		X							X	X	X	X	X	
OAKLAND-SUTHERLIN								X						X																X	X	X	X	X	X
OAKRIDGE														X							X									X				X	P
ONTARIO											X	X		X							X		X							X	X	X	X	X	X
OREGON CITY	X						X			X				X					X	X	X					X			X	X	X	X	X	X	P
OREGON SLOPE																					X		X							X	X	X	X	X	
PENDLETON									X		X	X		X	X						X									X	X	X	X	X	X
PHOENIX												X		X			X													X	X	X	X	X	X
PORTLAND ALPINE	X		X				X			X				X				X	X	X	X					X				X	X	X	X	X	P
PORTLAND ATLANTIC	X		X				X			X	X			X			X	X	X	X	X					X				X	X	X	X	X	P
PORTLAND BELMONT	X		X				X			X	X			X			X	X	X	X	X					X				X	X	X	X	X	P
PORTLAND BUTLER	X		X				X			X				X			X	X	X	X	X					X				X	X	X	X	X	P
PORTLAND CAPITOL	X		X				X			X	X	X		X			X	X	X	X	X					X				X	X	X	X	X	P
PORTLAND CHERRY	X		X				X			X	X			X			X		X	X	X					X				X	X	X	X	X	P
PORTLAND CYPRESS	X		X				X			X				X			X		X		X					X				X	X	X	X	X	P
PORTLAND HAROLD	X		X				X			X				X					X							X				X	X	X	X	X	P
PORTLAND PROSPECT	X		X				X			X				X					X	X	X					X				X	X	X	X	X	P
PRINEVILLE											X			X		X						X						X		P	X	X	X	X	X
RAINIER	X																									X				X	X	X	X		
REDMOND										X	X	X		X		X					X	X						X		X	X	X	X	X	X
ROGUE RIVER										X																				X	X		X		X
ROSEBURG		X						X						X			X													X	X	X	X	X	

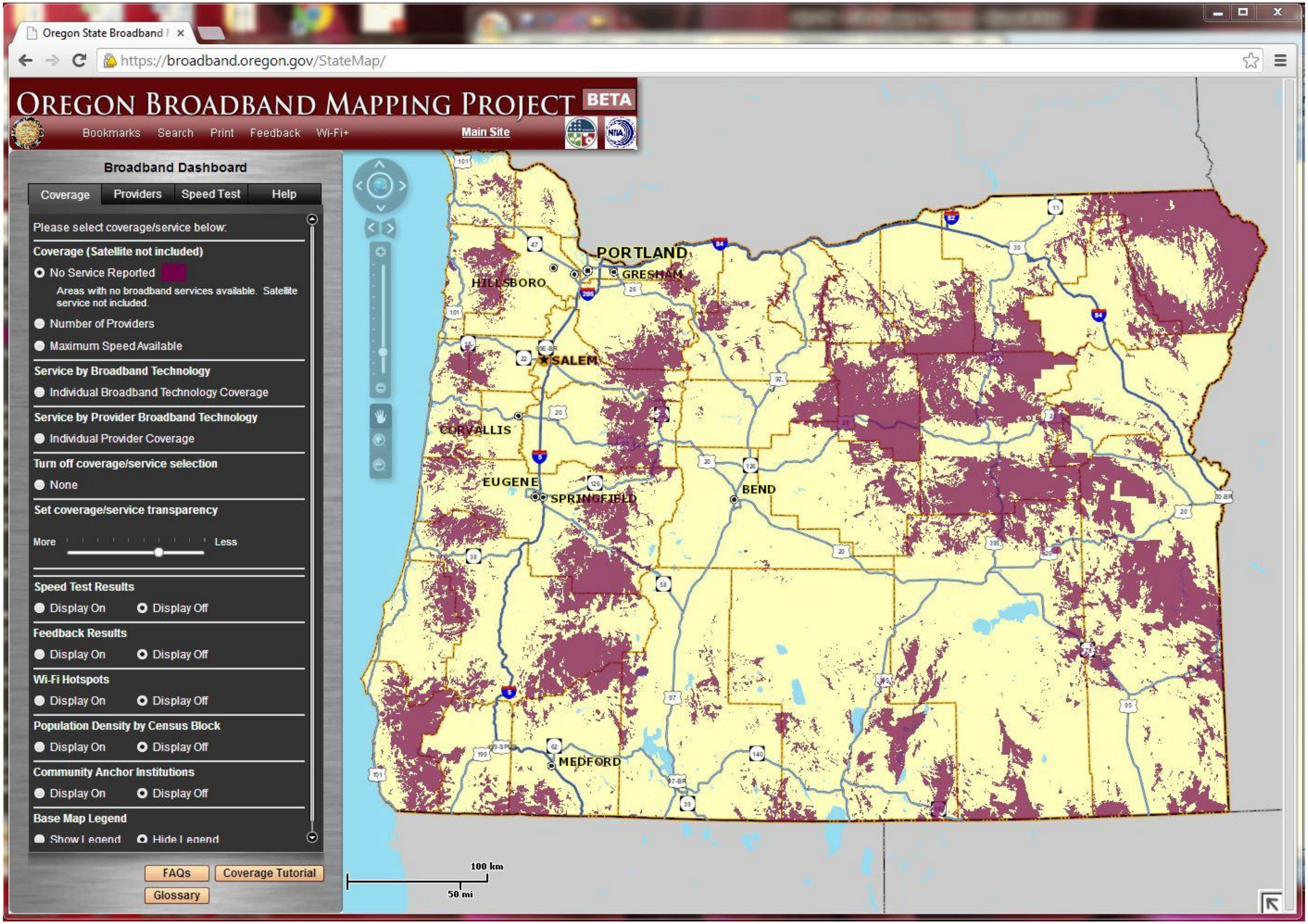
P = Wireless Partner Provides Service

UM 1354 - CUB/107
Jenks/4

CenturyLink QC Voice Competitors by Wire Center

	CLECs																					Cable								Wireless					
Wire Center	AT&T	Verizon	Windstream	Hunter Communications	Cal-Ore Communications Inc	CoastCom, Inc	Covad Communications Com	Douglas Fast Net	Eastern Oregon Telecom	Integra Telecom	Level 3 Communications, LL	LS Networks	MINet	New Edge Networks	Pendleton Fiber Company	Quantum Communications	Rio Networks	SawNet	TW Telecom of Oregon LLC	XO Communications Service	Zayo Group LLC	BendBroadband	Cableone	Chambers Cable	Charter Communications Inc	Comcast	Country Vision Cable	Crestview Cable Communica	Wave Broadband	AT&T Wireless	Verizon Wireless	Sprint	T-Mobile	Cricket	US Cellular
SALEM 10TH AVE	X	X	X							X				X							X					X			X	X	X	X	X	X	P
SALEM MAIN	X	X	X							X	X	X		X			X				X					X			X	X	X	X	X	X	P
SEASIDE														X																X	X		X		P
SILETZ														X															X	X					
SISTERS										X						X						X								X	X	X	X	X	X
SPRING RIVER ROAD										X														X				X		X	X	X	X	X	X
SPRINGFIELD										X				X			X				X					X				X	X	X	X	X	P
ST HELENS	X	X										X		X					X							X				X	X	X	X	X	P
STANFIELD											X										X									X	X	X	X	X	X
TOLEDO						X																								X	X	X		X	P
UMATILLA											X										X									X	X	X	X	X	X
VALE																					X		X							X	X	X	X	X	X
VENETA										X																X	X			X	X		X	X	P
WARM SPRINGS																														X	X		X		X
WARRENTON						X								X																X	X	X	X	X	P
WESTPORT																														X	X		X		P
WINSTON								X						X			X														X	X	X	X	
WOODBURN		X								X				X							X								X	X	X	X	X	X	P
Tally	25	19	11	4	1	5	14	3	2	44	16	19	2	56	1	6	17	5	14	12	39	5	4	2	0	33	3	7	0	78	77	64	73	65	71

P = Wireless Partner Provides Service


Oregon State Broadband
https://broadband.oregon.gov/StateMap/
OREGON BROADBAND MAPPING PROJECT BETA
Bookmarks Search Print Feedback Wi-Fi+
Main Site
Broadband Dashboard
Coverage Providers Speed Test Help
Please select coverage/service below:
Coverage (Satellite not included)
No Service Reported
Areas with no broadband services available. Satellite service not included.
Number of Providers
Maximum Speed Available
Service by Broadband Technology
Individual Broadband Technology Coverage
Service by Provider Broadband Technology
Individual Provider Coverage
Turn off coverage/service selection
None
Set coverage/service transparency
More
Less
Speed Test Results
Display On Display Off
Feedback Results
Display On Display Off
Wi-Fi Hotspots
Display On Display Off
Population Density by Census Block
Display On Display Off
Community Anchor Institutions
Display On Display Off
Base Map Legend
Show Legend Hide Legend
FAQs
Coverage Tutorial
Glossary
PORTLAND
GRESHAM
HILLSBORO
SALEM
CORVALLIS
EUGENE
SPRINGFIELD
BEND
MEDFORD
100 km
50 mi

UM 1354 – CERTIFICATE OF SERVICE

I hereby certify that, on this 2nd day of April, 2014, I served the foregoing **OPENING TESTIMONY OF THE CITIZENS' UTILITY BOARD OF OREGON** in docket UM 1354 upon each party listed in the UM 1354 OPUC Service List by email and, where paper service is not waived, by U.S. mail, postage prepaid, and upon the Commission by email and by sending one original and five copies by U.S. mail, postage prepaid, to the Commission's Salem offices.

(W denotes waiver of paper service)

(C denotes service of Confidential material authorized)

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