

ORDER NO. 16 497

ENTERED DEC 22 2016

**BEFORE THE PUBLIC UTILITY COMMISSION
OF OREGON**

UA 170

In the Matter of

CANBY TELEPHONE ASSOCIATION and
MT. ANGEL TELEPHONE COMPANY,

Joint Application for the Unallocation,
Transfer, and Allocation of Service Territory.

ORDER

DISPOSITION: STAFF'S RECOMMENDATION ADOPTED

This order memorializes our decision, made and effective at the Administrative Issues Public Meeting on December 20, 2016, to adopt Staff's recommendation in this matter. The Staff Report with the recommendation is attached as Appendix A.

Dated this 22 day of December 2016, at Salem, Oregon.



Lisa D. Hardie
Chair



John Savage
Commissioner



Stephen M. Bloom
Commissioner

A party may request rehearing or reconsideration of this order under ORS 756.561. A request for rehearing or reconsideration must be filed with the Commission within 60 days of the date of service of this order. The request must comply with the requirements in OAR 860-001-0720. A copy of the request must also be served on each party to the proceedings as provided in OAR 860-001-0180(2). A party may appeal this order by filing a petition for review with the Circuit Court for Marion County in compliance with ORS 183.484.

PUBLIC UTILITY COMMISSION OF OREGON
INTEROFFICE CORRESPONDENCE

DATE: December 13, 2016

TO: Michael Grant, Administrative Hearings Division

FROM: Kay Marinos

SUBJECT: UA 170: In the Matter of Canby Telephone Association and Mt. Angel Telephone Company, Joint Application for the Unallocation, Transfer, and Allocation of Certain Territory.

This memo provides information to the Administrative Hearings Division for use in processing the Joint Application of Canby Telephone Association (Canby) and Mt. Angel Telephone Company (Mt. Angel) to transfer allocated territory from Mt. Angel to Canby (Joint Application). Staff recommends that the Commission approve the Joint Application, effective January 1, 2017, and grant the associated waiver request. Granting the Joint Application will not be contrary to the public interest and will permit the consolidation of the two companies into one entity that can more efficiently provide telecommunications services to customers of both companies.

Background and Purpose of the Transfer

Mt. Angel is a wholly owned subsidiary of Canby. However, the two companies have been operating as separate incumbent local exchange carriers (ILECs) - Canby as a telecommunications cooperative and Mt. Angel as a private and independent company. Each company has its own allocated territory and certificate of authority of authority to operate as a utility. Canby's current territory is identified in Order No. 07-560 as the Canby and Needy exchange areas shown in maps approved on November 4 and 5 of 1987. Mt. Angel's current territory is identified in Order No. 07-551 as the Mt. Angel exchange area shown in the map approved on September 20, 1963. Maps for both companies are on file with the Commission, but are included here as Attachment 1 for future public reference.

On November 1 of this year, both companies assumed DirectLink as their new business name. Effective January 1, 2017, Canby will acquire all of the property of Mt. Angel and Mt. Angel will be dissolved. The surviving entity will be the Canby Telephone Association cooperative doing business as DirectLink. The transfer of allocated territory is necessary to complete the consolidation and enable the company to operate as one telecommunications utility in the Canby, Needy and Mt. Angel exchanges.

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Legal Requirements

The relevant statutory requirements for the transfer of allocated territory are found in ORS 759.560. ORS 759.560(1) permits a transfer only with the approval of the Commission after a finding that the transfer is not contrary to the public interest. ORS 759.560(2) requires that a transfer of territory previously allocated may be approved only upon receipt of an application jointly filed by the transferor and the transferee. Such application shall include exchange maps showing how the applicants want the Commission to allocate the territory.

OAR 860-034-0490 further defines the information to be included in an application to transfer rights to allocated territory for small telecommunications utilities and cooperatives. The details are addressed in the following section.

The Joint Application Meets the Legal Requirements for Transfer (with Grant of Requested Waiver)

The Joint Application meets the statutory requirements of ORS 759.560 in that it was filed jointly by both the transferor (Mt. Angel) and the transferee (Canby) and cites the exchange map depicting the Mt. Angel territory that is to be transferred.

The Joint Application also meets the more detailed administrative rule requirements of OAR 860-034-0490 to provide maps and certain other pertinent information (with the exception of some requirements that the applicants request be waived) as follows.

- 1) In accordance with OAR 860-034-0490(1), the Joint Application explains that the purpose for the transfer is to effectuate the consolidation of the Mt. Angel entity into the Canby cooperative and that all of the property of Mt. Angel is being acquired by Canby. The consolidation will allow Canby to expand efficiencies of its operations to provide basic and advanced services in the combined territories. The Joint Application further states that the allocation will not be contrary to the public interest. In fact, according to the applicants, the transfer will actually be in the public interest because it will allow customers to receive updated facilities to provision broadband services in the region.
- 2) In accordance with OAR 860-034-0490(2), the Joint Application includes in Exhibit A a copy of all written evidence and a statement of all oral understanding comprising the agreement regarding the transfer.
- 3) In order to meet the requirement of OAR 860-034-0490(3) for a map showing the general location and boundaries of the allocated territory to be transferred, the Joint Application refers to a map of the Mt. Angel exchange that is on file with the Commission as part of Mt. Angel's tariff. Under OAR 860-034-0010(1), the

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- applicants request a waiver of the requirement to provide maps of the transferor's and the transferee's adjacent service areas.
- 4) The applicants further request a waiver pursuant to OAR 860-034-0010(1) of the requirements of OAR 860-034-0490(4) to provide a map or maps, drawn to appropriate scale, showing:
 - a) The number, and as practicable, the location of customers and equipment or facilities of the transferor with a detailed description of such equipment or facilities within the territory to be transferred; and
 - b) The location of equipment or facilities of the transferor and transferee, with a detailed description of the same, which are in the territory immediately adjacent to that to be transferred and which are or will be interconnected therewith.
 - 5) The applicants further request a waiver pursuant to OAR 860-034-0010(1) of the requirement of OAR 860-034-0490(5) to provide a legal description comparable to that required in OAR 860-034-0470(4) of the boundaries of the territory to be transferred. Staff notes that there is a mismatch in rules here that is likely attributable to oversight in updating of some rules. The rule should most likely refer to OAR 860-034-0470(3), but even that requirement can be met by the cited map of the Mt. Angel exchange.
 - 6) The applicants further request a waiver pursuant to OAR 860-034-0010(1) of the requirements of OAR 860-034-0490(6) to provide a legal description comparable to that required in OAR 860-034-0470(4) of the resulting boundaries of the remaining allocated portion of the parcel of the transferor's territory where the transferred territory is only part of a parcel of the transferor's allocated territory, and a similar description of the resulting boundaries of the transferee's allocated territory where the territory to be transferred will be contiguous to a parcel of the transferee's allocated territory.¹ This requirement is not applicable because the entire allocated territory of Mt. Angel will be transferred to Canby; the exchange boundaries will not be altered.
 - 7) In response to OAR 860-034-0490(7) requirements, the applicants state that they are unaware of the existence of requirements of any other authorities to transfer franchises or permits, and therefore have no documents to submit in this regard.

Staff supports the waiver requested for requirements in OAR 860-034-0490(3)-(6). The maps already on file of the Mt. Angel and Canby exchanges will not require boundary alterations, and therefore the requirements are either unnecessary or inapplicable in this case. Nevertheless, as stated above, current maps of each company's allocated territories are included here as Attachment 1 to this memo. Additionally, two Staff-

¹ Staff again notes that there is a mismatch in rules here that is likely attributable to oversight in updating of some rules. The rule should most likely not refer to OAR 860-034-0470(4) because the latter rule concerns the provision of exclusive utility service.

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produced maps are included as Attachments 2 and 3 that show the geographical relationships of the two companies, as well as territories of nearby ILECs.

Although ORS 759.560(5) permits the Commission to establish notice requirements by rule for the transfer of allocated territory, the Commission has not done so. Therefore, no notice is necessary. There also appears to be no reason to require a hearing before ruling on the Joint Application.

Other Items Related to the Transfer of Territory

Although not required by Commission rules to do so, the companies did notify Mt. Angel customers of the change. A copy of the notice is included in the application as Exhibit B.

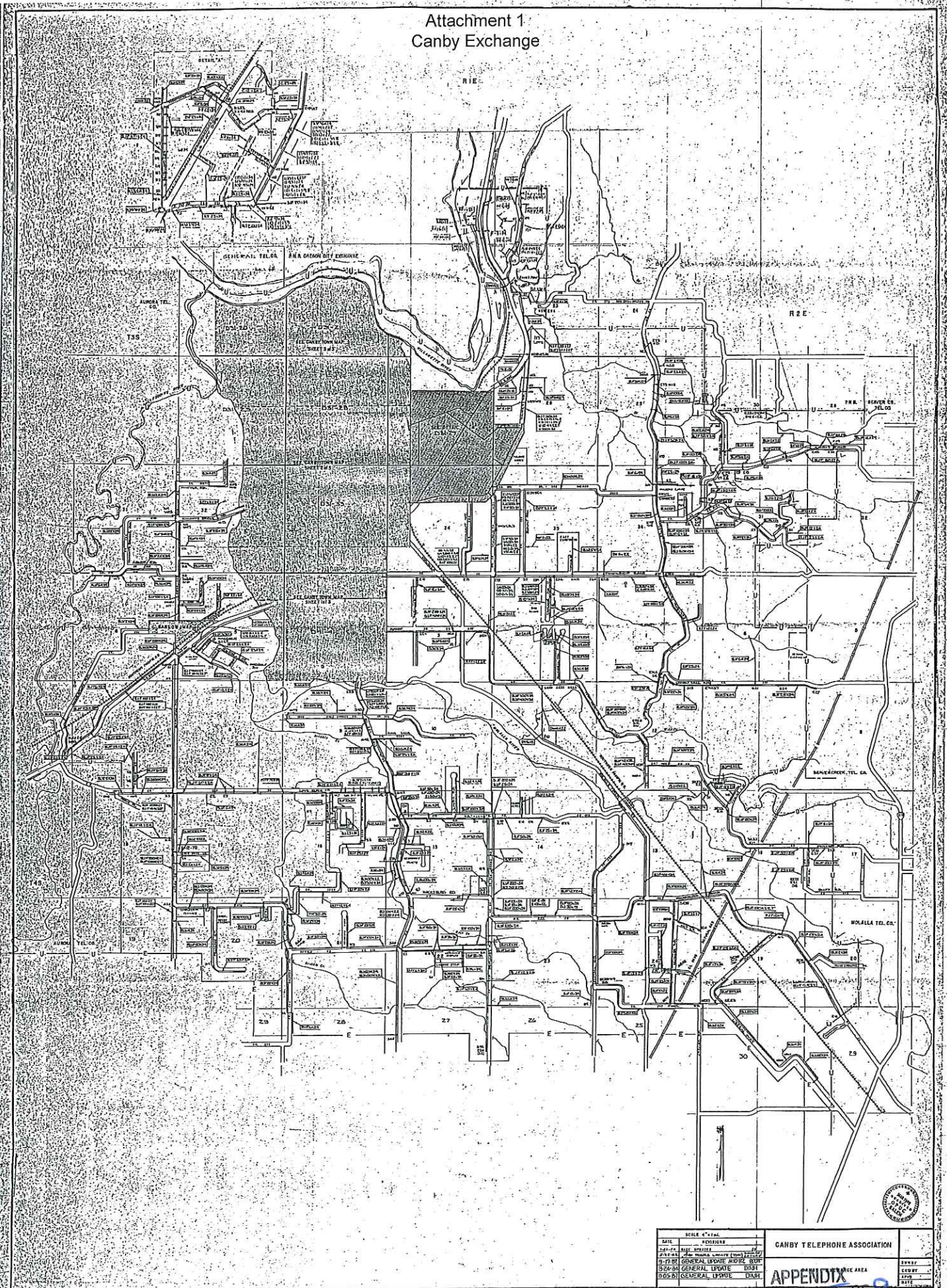
The Joint Application states that the existing tariffed local exchange rates currently charged by Mt. Angel will continue to apply in that exchange, although the rates will no longer be tariffed. The companies have filed to withdraw the Mt. Angel tariff. As a cooperative, Canby is not required to file a tariff for local exchange service, or to seek Commission approval for local exchange rates. The companies have also filed modifications to their common intrastate access tariff to reflect necessary changes in that tariff. Mt. Angel has several interconnection agreements with other carriers, and the companies will need to address assignment of those agreements to Canby per the requirements in the contracts. OUSF payment issues have been resolved. It will be Canby's responsibility to resolve any federal universal service or study area definition issues with the appropriate federal entities.

Mt. Angel holds a certificate of authority to provide telecommunications service as a utility in the Mt. Angel exchange. Canby and Mt. Angel have submitted a joint application to transfer Mt. Angel's certificate to Canby, consistent with transfer of the allocated territory. The certificate transfer is being addressed in UM 1803.

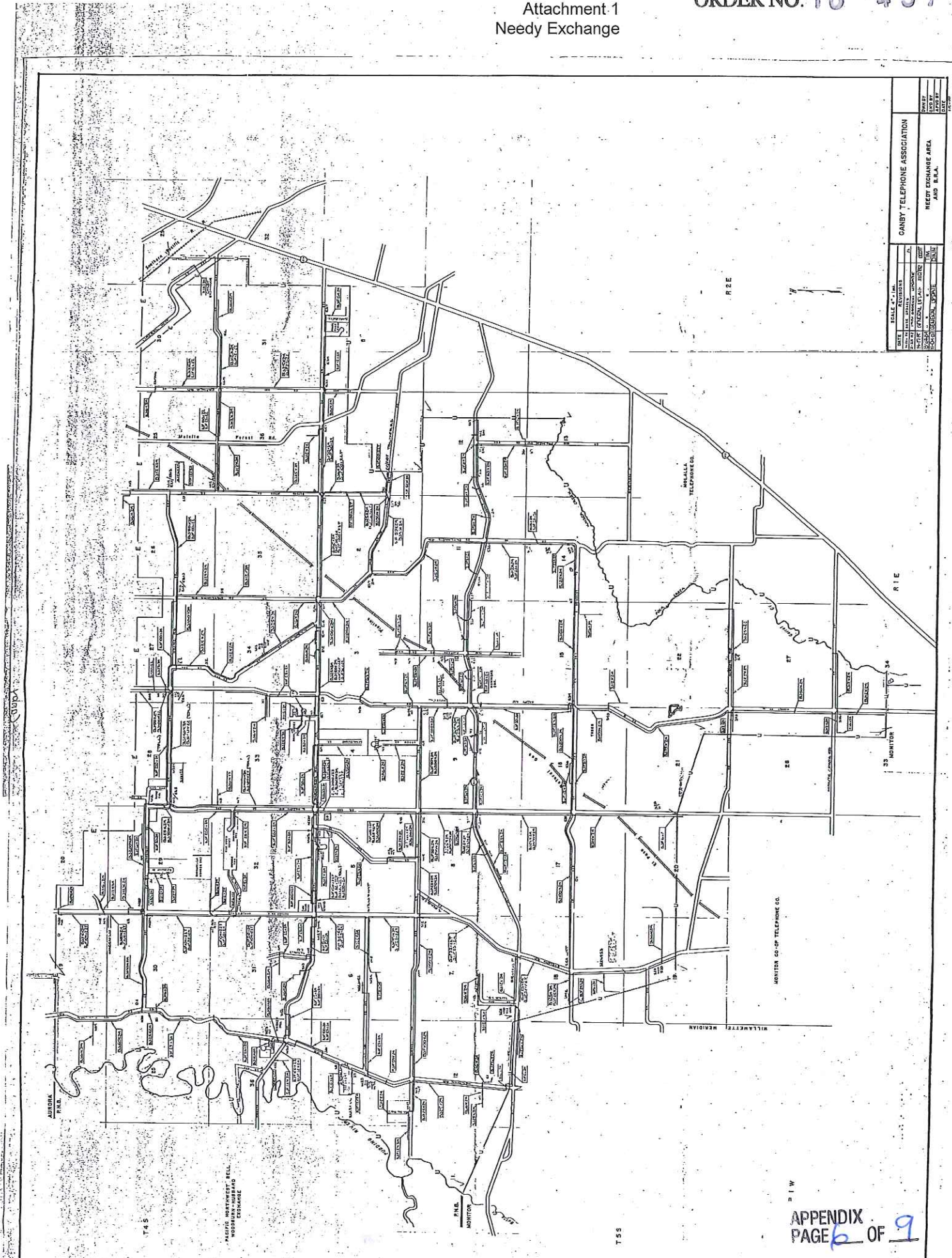
Summary

Staff finds no evidence indicating that the Joint Application is contrary to the public interest and therefore recommends that the Commission grant the request for the unallocation, transfer and allocation of Mt. Angel Telephone Company's territory to Canby Telephone Association, and the associated waiver request, effective January 1, 2017.

Attachment 1
Canby Exchange

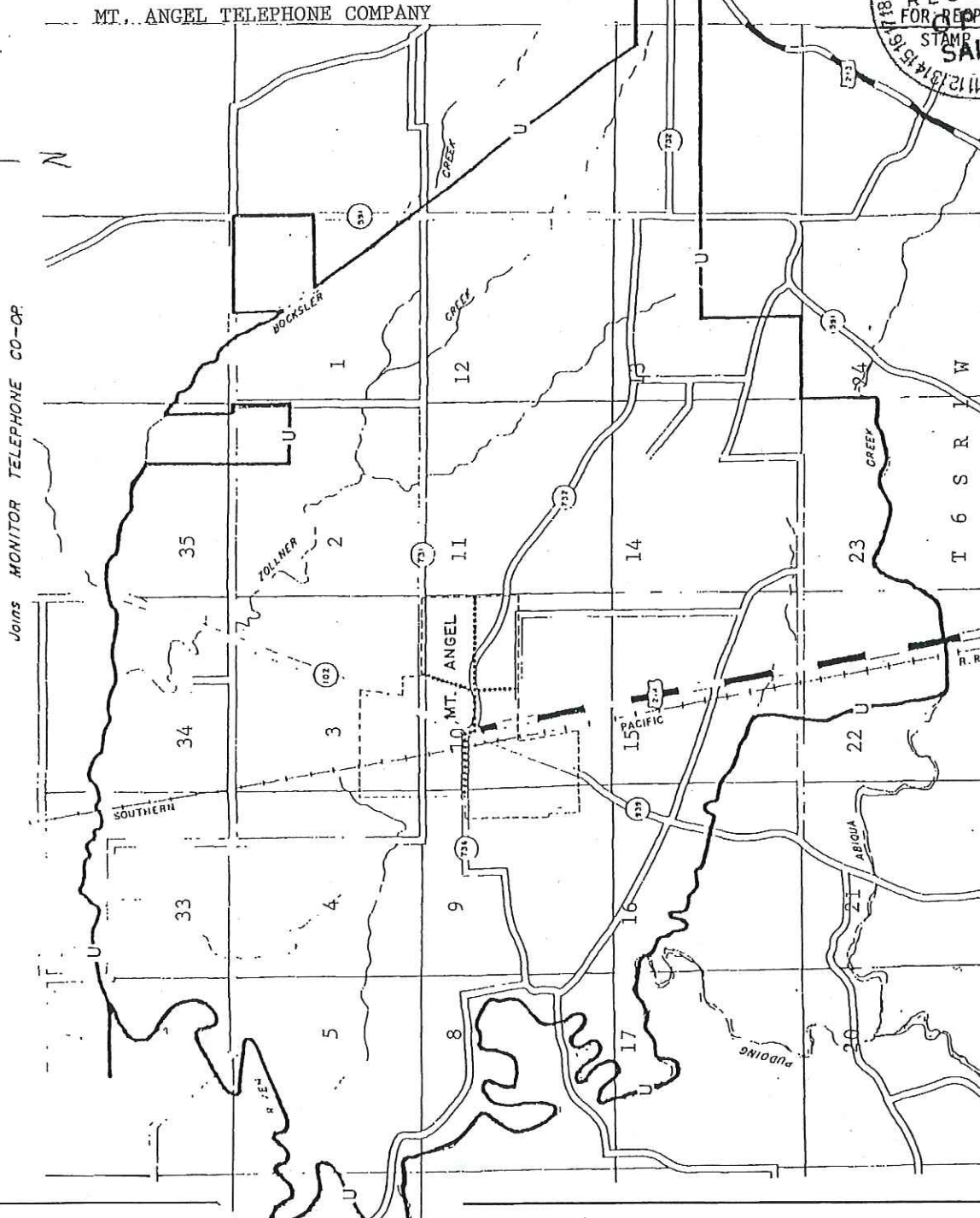


SCALE 1" = 1 MI.		CANBY TELEPHONE ASSOCIATION
SHEET	POSSIBLES	
DATE	BY	
REVISION	DATE	
REVISION	DATE	
1-75-20 GENERAL UPDATE AMOR. BUREAU 1-75-20 GENERAL UPDATE AMOR. BUREAU 1-75-20 GENERAL UPDATE AMOR. BUREAU		APPENDIX PAGES 3 OF 9



Attachment 1
Mt. Angel Exchange
Original Sheet 601

PUC Or. No. 7



MT. ANGEL EXCHANGE

ADVICE NO. 39

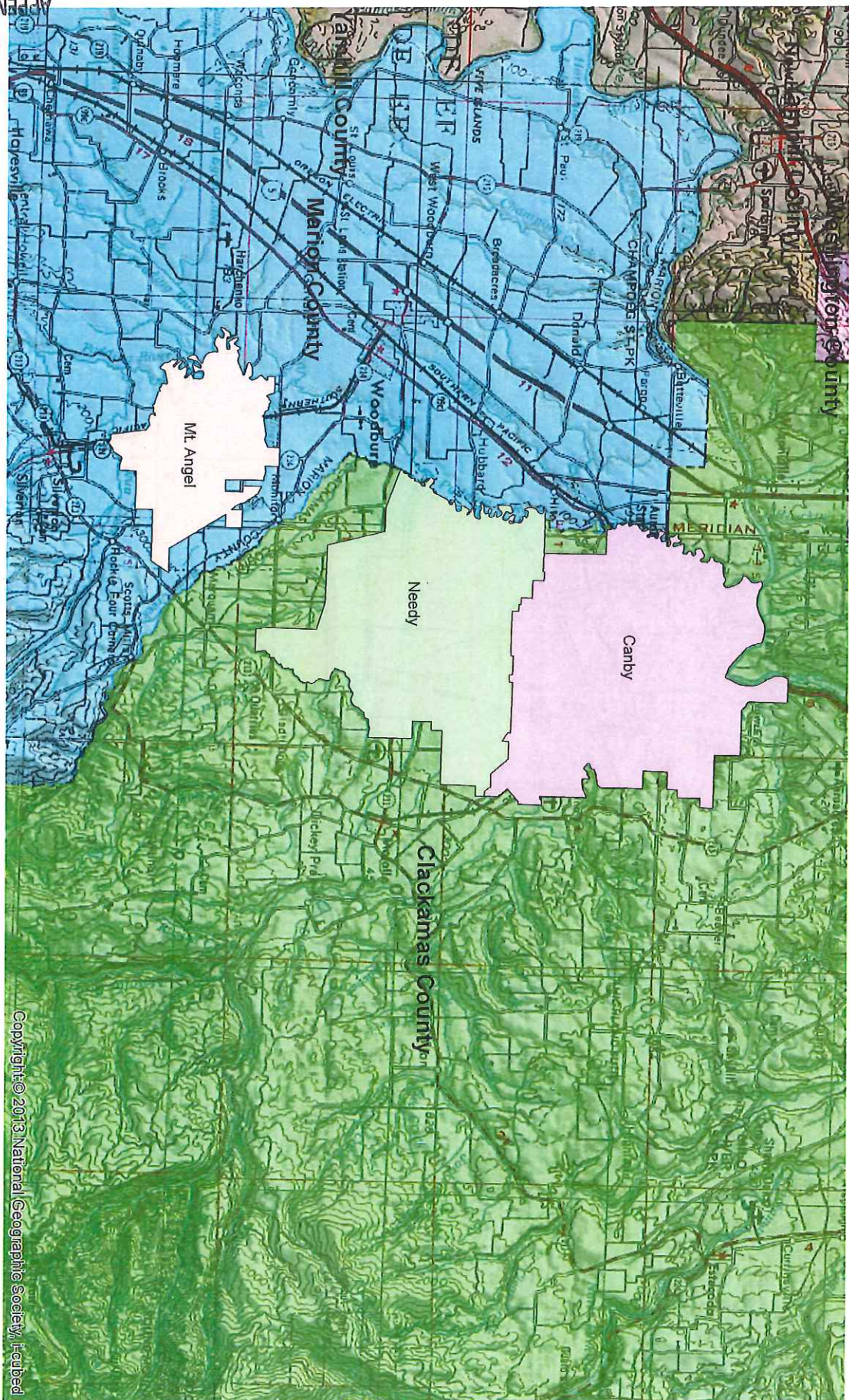
ISSUED November 25, 1986

EFFECTIVE January 1, 1987

ISSUED BY Thomas C. Bauman

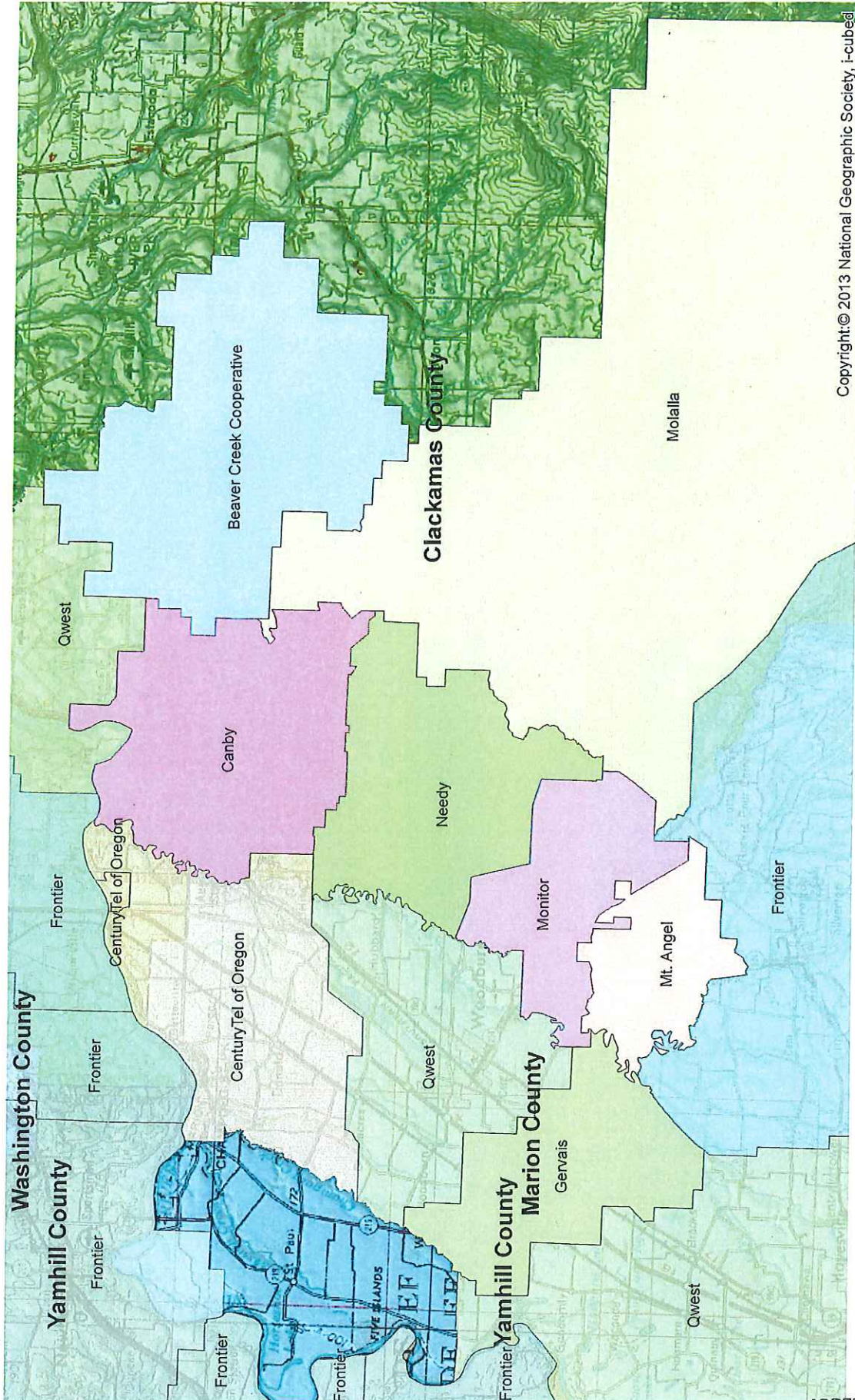
Thomas C. Bauman

TITLE General Manager



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Attachment 3



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