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February 8, 2006

Via Electronic Filing and U.S. Mail

OREGON PUBLIC UTILITY COMMISSION
ATTENTION: FILING CENTER
PO BOX 2148
SALEM OR 97308-2148

RE: **Docket No. UM 1217** - In the Matter of PUBLIC UTILITY COMMISSION OF OREGON Staff Investigation to Establish Requirements for Initial Designation and Recertification of Telecommunications Carriers Eligible to Receive Federal Universal Service Support.

Enclosed for filing in the above-captioned docket is the Public Utility Commission Staff's Reply Testimony. This document is being filed by electronic mail.

/s/ Kay Barnes

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PUBLIC UTILITY COMMISSION
OF OREGON

UM 1217

STAFF REPLY TESTIMONY
OF

KAY MARINOS

In the Matter of
PUBLIC UTILITY COMMISSION OF OREGON
Staff Investigation to Establish Requirements for Initial Designation and Recertification of Telecommunications Carriers Eligible to Receive Federal Universal Service Support

February 8, 2006

CASE: UM 1217
WITNESS: Kay Marinos

PUBLIC UTILITY COMMISSION
OF
OREGON

STAFF EXHIBIT 4

Reply Testimony

February 8, 2006

Q. PLEASE STATE YOUR NAME, OCCUPATION, AND BUSINESS ADDRESS.

A. My name is Kay Marinos. I am a Senior Telecommunications Analyst in the Telecommunications Division of the Public Utility Commission of Oregon (Commission). My business address is 550 Capitol Street NE Suite 215, Salem, Oregon 97301-2551.

Q. DID YOU PREVIOUSLY FILE TESTIMONY IN THIS DOCKET?

A. Yes, I submitted Exhibits Staff/1, Staff/2, and Staff/3.

Q. WHAT IS THE PURPOSE OF YOUR TESTIMONY?

A. The purpose of my testimony is to reply to direct testimony submitted in this docket by the Oregon Telecommunications Association (OTA), Verizon Northwest Inc. (Verizon), Qwest Corporation and Malheur Home Telephone Co. (Qwest), RCC Minnesota, Inc. (RCC) and United States Cellular Corporation (USCC). In addition, I revise and clarify a few specific recommendations I made in my direct testimony.

Q. DID YOU PREPARE EXHIBITS FOR YOUR REPLY TESTIMONY?

A. Yes. I prepared Exhibit Staff/5, consisting of two pages. It is a revised version of the requirements matrix that I submitted in direct testimony as Exhibit Staff/3. The changes reflect revised recommendations regarding initial designation and annual reporting requirements as discussed below.

Q. HOW IS YOUR TESTIMONY ORGANIZED?

A. My testimony is organized as follows:

Q. YOU SAID THAT YOU HAVE REVISED AND CLARIFIED SOME OF THE RECOMMENDATIONS YOU MADE IN YOUR DIRECT TESTIMONY. PLEASE SUMMARIZE.

A. Under Issue II.A, I have modified my recommendation regarding the basic eligibility requirement that an ETC commit to complying with specific consumer protection and service quality measures. I have not changed my recommendation for the requirement as it relates to wireless ETCs, but have revised it for wireline (LEC) ETCs. The revision adds more specificity to the requirement and removes a possible ambiguity associated with the wording of the requirement as it was stated in my direct testimony. The revised recommendation requires wireline ETC applicants to commit to compliance with applicable Oregon Administrative Rules (Commission rules) concerning consumer protection and service quality. My direct testimony at page 42 recommended that wireline ETCs commit to compliance with "applicable

Oregon state and federal consumer protection regulations and PUC service standards" which represents a broader commitment than my revised recommendation.

Under Issue III.A, after considering the direct testimony of other parties and upon further consideration, I have modified my recommendations regarding four annual certification requirements. These revisions are discussed in detail under Issue III.A.1 below. Briefly, the revised recommendations are: 1) require updates for only the first 2 years of the network improvement plan for annual reporting purposes (not years 3-5 as recommended in direct testimony); 2) permit LEC substitution of "held order" service quality reports in lieu of the "unfulfilled customer requests" report; 3) require "trouble" reports from all ETCs in satisfaction of network service quality report requirements (instead of "complaint" reports from wireless ETCs and all service quality reports from wireline ETCs as recommended in direct testimony); and 4) require ILEC ETCs to certify their compliance with applicable Commission rules concerning consumer protection and service quality (to achieve consistency with the corresponding revised commitment required for initial designation).

In addition, I clarify several recommendations under Issue III.A related to the annual certifications regarding use of support funds, forecasts of support included in network plan updates, outage report details and advertising documentation. These clarifications are discussed in more detail under Issues III.A.1 and III.A.2 below.

ISSUE I.A. OVERALL: WHAT POLICY OBJECTIVES SHOULD THE COMMISSION ATTEMPT TO ACHIEVE THROUGH THIS DOCKET?

Q. HAS THE DIRECT TESTIMONY OF OTHER PARTIES CAUSED STAFF TO REVISE ITS RECOMMENDATION ON ISSUE I.A.?

A. No. The policy objectives proposed by other parties are generally consistent with those proposed by Staff. Staff's list of policy objectives is more comprehensive, however, and includes most of the objectives proposed by the other parties.

ISSUE II.A. WHAT SPECIFIC BASIC ELIGIBILITY REQUIREMENTS SHOULD THE COMMISSION ADOPT FOR THE INITIAL CERTIFICATION OF ETCS?

Q. HAS THE DIRECT TESTIMONY OF OTHER PARTIES CAUSED STAFF TO REVISE ITS RECOMMENDATION ON ISSUE II.A.?

A. No, the testimony submitted by other parties has not caused Staff to revise its recommendations on this issue, for the reasons explained under each sub-issue below. However, Staff does wish to restate its recommendation under Issue II.A.1 regarding one basic eligibility requirement. That is the requirement for a demonstration of an ETC applicant's commitment to specific consumer protection and service quality measures. This revision, which is discussed under Issue II.A.1 below, adds more specificity to the requirement as it applies to wireline (LEC) ETC applicants and removes a possible ambiguity associated with the recommendation in Staff's direct testimony.

<u>ISSUE II.A.1. SHOULD THE COMMISSION ADOPT ANY, OR ALL, OF THE REQUIREMENTS PROPOSED BY THE FCC IN ORDER 05-46?</u>

Q. HAS THE DIRECT TESTIMONY OF OTHER PARTIES CAUSED STAFF TO REVISE ITS RECOMMENDATION ON ISSUE II.A.1.?

A. No. Except Verizon, all parties generally support adoption of the FCC basic eligibility requirements for ETC designation, albeit with some modifications. Verizon, at Exhibit Verizon/1, Fulp/4, proposes that the Commission retain the requirements it used in designating RCC Minnesota in Order No. 04-355, instead of adopting the proposed FCC requirements. RCC and USCC generally support the FCC requirements, but recommend modifications to the 5-year plan to reduce the length of the plan and eliminate wire center detail requirements for network investments. *See* Exhibit RCC-USCC/1, Wood/21-25.

However, on further reflection, Staff revises its recommendation regarding how a LEC ETC applicant should demonstrate its commitment to specific consumer protection and service quality standards as explained below.

Q. WHY DOES STAFF DISAGREE WITH VERIZON'S PROPOSAL TO RETAIN ORDER NO. 04-355 BASIC ELIGIBILITY REQUIREMENTS, INSTEAD OF ADOPTING THE NEW FCC REQUIREMENTS?

A. In general, Staff recommends the Commission adopt the basic eligibility requirements proposed by the FCC in Order 05-46 and supplement those with additional Commission requirements from Order No 04-355. Staff's recommendations in direct testimony reflect the integration of requirements in both orders. The basic eligibility requirements in Order No. 04-355 are consistent with the requirements of the Act and past FCC decisions, and in many ways similar to the FCC requirements proposed in FC 05-46. However, the FCC establishes a more structured, rigorous and specific framework for most of the basic eligibility requirements for ETC designation.

In defense of its position, Verizon at Exhibit Verizon/1, Fulp/4, lines 7-12, argues that the new FCC requirements do not fit well in Oregon, at least with Verizon's operations, and that they are redundant of obligations Verizon already satisfies as an ILEC. Verizon's responses seem to be addressing only Verizon's case. However, this docket is not just about Verizon, or the ILECs. It is about eligibility requirements for all ETCs.

Q. WHAT MODIFICATIONS TO THE FCC BASIC ELIGIBILITY REQUIREMENTS DO RCC AND USCC PROPOSE?

A. RCC and USCC propose two modifications to the 5-year network improvement plan. The first modification, proposed at Exhibit RCC-USCC/1, Wood/22-23, is to reduce the time span for the network improvement plan from the 5-year period required by the FCC to only one year, or two years at most. The second modification, proposed at Exhibit RCC-USCC/1, Wood/23-25, is to eliminate the requirement to identify network investments at the individual ILEC wire center level of detail.

Q. DO YOU SUPPORT REDUCTION OF THE 5-YEAR PLAN PERIOD AS PROPOSED BY RCC AND USCC?

A. In part. In my direct testimony, I explained why detailed information regarding the planned used of funds should not be required for all five years, but should be required for only the first two years. *See* Exhibit Staff/1, Marinos/32-36. I support requiring details for the first two years, rather than for just one year, in order to allow flexibility in planning and implementation between the first two years. That is, if for some reason a project planned for the first year cannot be started in that year, the ETC may use the first year's support funds to begin work on another project originally planned for the second year.

Unlike RCC and USCC, however, I do not support limiting the entire plan to just one or two years. In my direct testimony, at Exhibit Staff/1, Marinos/34-35, I recommended that the 5-year period proposed by the FCC be retained, but that plans for the third, fourth and fifth years be at a less-detailed level. An overview of an applicant's plans for these latter years would demonstrate to the Commission the applicant's commitment and plans for providing universal service over a 5-year horizon. As explained later in my reply testimony under Issue III.A.1, I modify my direct testimony to recommend that the full five-year plan be required only for initial designation. For annual certification purposes thereafter, the ETC would provide updates only for the next 2-year period.

Q. DOES STAFF SUPPORT ELIMINATION OF WIRE-CENTER LEVEL DETAIL IN THE NETWORK IMPROVEMENT PLAN AS PROPOSED BY RCC AND USCC?

A. Staff generally supports RCC and USCC on this point. RCC and USCC recommend that ETCs not be required to provide network planning information by ILEC wire center. *See* Exhibit RCC-USCC/1, Wood/23-25. In my direct testimony at Exhibit Staff/1 Marinos/37-38, I recommended that although the plan should not include detail for every wire center for which the ETC expects to receive support (as proposed by the FCC), the plan should provide some indication of which geographic areas will be impacted by each of the supported projects. This identification can be made through the use of maps for each project. Should the Commission decide, however, that it is important to know which ILEC wire centers will be impacted by expenditures of universal service support funds, it would not be overly burdensome for the ETCs to list the wire centers where customers will receive benefits from each supported project.

I would like to clarify that although I agree with RCC and USCC that detail for all wire centers is not needed for supported network investments included in the plan, this does not change my recommendation regarding the level of detail that should be provided for an ETC applicant's initial forecast of the support funds that it expects to receive during the first two plan years. *See* Exhibit Staff/1, Marinos/36-37.

Q. DO YOU WISH TO REVISE YOUR RECOMMENDATIONS RELATIVE TO ANY OTHER FCC BASIC ELIGIBILITY REQUIREMENTS?

A. Yes. I revise my recommendation regarding the basic eligibility requirement that an ETC demonstrate its commitment to specific consumer protection and service quality standards. The revision relates only to requirements for wireline (LEC) ETCs. I recommended in my direct testimony that wireless applicants meet this requirement by committing to comply with the CTIA Consumer Code for Wireless Service and that wireline applicants meet this requirement by committing to comply with "applicable Oregon state and federal consumer protection regulations and PUC service quality standards." *See* Exhibit Staff/1, Marinos/42, lines 14-17. The standards to which the wireline ETCs are to commit are explicit – the CTIA Consumer Code for Wireless Service. However, the proposed language describing wireline ETC commitments is too broad and should be revised to be more specific. Therefore, I now recommend that wireline ETC applicants be required to commit to comply with "applicable Commission rules concerning consumer protection and service quality." The Commission rules address consumer protection and service quality requirements and vary for different categories of wireline carriers. Therefore, a wireline ETC applicant should commit to comply with the rules that apply to it. Note that this change does not affect my additional recommendation that all ETC applicants should commit to cooperate with the PUC's Consumer Services Division at Exhibit Staff/1, Marinos/42, lines 17-22.

Q. YOU HAVE PROPOSED ADDITIONAL MODIFICATIONS TO SOME OTHER FCC BASIC ELIGIBILITY REQUIREMENTS THAT OTHER PARTIES HAVE NOT. HAVE YOU CHANGED YOUR POSITION ON THOSE MODIFICATIONS?

A. No.

<u>ISSUE II.A.2. SHOULD THE COMMISSION ADOPT OTHER BASIC ELIGIBILITY REQUIREMENTS?</u>

Q. HAS THE DIRECT TESTIMONY OF OTHER PARTIES CAUSED STAFF TO REVISE ITS RECOMMENDATION ON ISSUE II.A.2.?

A. No. OTA is the only party, besides Staff, to propose additional basic eligibility requirements. I continue to support the additional requirements I proposed in my testimony, and I oppose OTA's recommendation at Exhibit OTA/1 Wolf/15 that the Commission also adopt service quality standards as set out in OAR 860-034-0390 for all CETCs, including wireless CETCs.

Q. WHY DO YOU OPPOSE OTA'S PROPOSAL TO REQUIRE ALL CETCS TO COMMIT TO ILEC SERVICE QUALITY STANDARDS?

A. As stated in my direct testimony at Exhibit Staff/1 Marinos/42, I support requiring all <u>wireline</u> (LEC) ETCs to commit to upholding service quality standards as required by the Commission's rules. But I also argue in my direct testimony that service quality is an area in which it is difficult to achieve neutrality between wireline and wireless carriers. The Commission should not adopt requirements for wireless carriers just because they are imposed on wireline carriers.

OTA admits that not all of the ILEC service quality standards would be appropriate for wireless carriers, yet OTA does not say precisely which service quality standards should, or should not, apply to wireless carriers. The service quality rules for wireline carriers in OAR 860-034-0390 include standards for the following: 1) provisioning and held orders for lack of facilities, 2) trouble reports, 3) repair clearing time, 4) blocked calls, 5) access to representatives, 6) customer access line testing, and 7) customer access lines and wire center switching equipment. Standards for interruptions of service (outages) were added after OTA's testimony was filed. At Exhibit OTA/1, Wolf/15, lines 9-13, OTA vaguely suggests that standards for provisioning and held orders would be appropriate, but acknowledges standards related to customer access line testing, as well as to customer access lines and wire center switching, would not be appropriate.

OTA direct testimony notes at Exhibit OTA/1, Wolf/15, lines 9-13, that the Commission is prohibited by Oregon law from applying its service quality standards to cooperatives. Yet OTA fails to recognize that the Commission is prohibited by Oregon law from applying the service quality standards to wireless carriers as well. In the case of cooperatives, OTA implies that service quality standards are not necessary because cooperatives can vote out management if service quality is not acceptable. However, it could be argued that in the case of wireless carriers, if service quality is not acceptable, customers can drop their wireless service, and the carriers will no longer receive support funds for those customers.

OTA's recommendation, assuming the Commission has the authority to implement it, would require wireless carriers to construct new measurement systems for each of the service quality standards that the Commission would impose. Such measurement systems would be required in order to determine whether the carrier met the standards set in the Commission's rules. This represents an unnecessary burden on wireless ETCs and would act as a significant disincentive to wireless carriers to become ETCs.

The approach taken by the Commission in Order No. 04-355 (page 9) in regard to service quality standards and wireless ETCs is the correct one and should be adopted in this docket. The Commission recognized that ORS 759.450(8) constrains it from regulating the service quality of wireless carriers. Sharing concerns voiced by OTA in that docket (UM 1083), the Commission required RCC to file annual reports of complaints, supplemented with details as to how many complaints were received as to service quality, by wire center, and how they were resolved. The annual reporting requirements proposed by the FCC include reports on several items related to service quality – outages, unfulfilled service requests and complaints. The Commission should continue the same approach it took in UM 1083. It should not impose wireline LEC service quality standards on wireless carriers as a condition of ETC status, but it should monitor the service performance of all ETCs through selected comparable annual reports. I discuss annual reporting in detail under Issue III.A. below.

<u>ISSUE II.A.3. SHOULD THE SAME REQUIREMENTS APPLY FOR DESIGNATION IN RURAL AND NON-RURAL ILEC SERVICE AREAS?</u>

Q. HAS THE DIRECT TESTIMONY OF OTHER PARTIES CAUSED STAFF TO REVISE ITS RECOMMENDATION ON ISSUE II.A.3.?

A. No. Parties generally agree that there is no basis for adopting different basic eligibility requirements for designation in rural and non-rural ILEC service areas. Please note that Issue II.A.3 addresses only the basic eligibility requirements and not the public interest test, which is addressed separately under Issue III.B. below.

ISSUE II.A.4. SHOULD THE SAME REQUIREMENTS APPLY REGARDLESS OF THE TYPE OF SUPPORT (TRADITIONAL HIGH-COST, INTERSTATE ACCESS/COMMON LINE, LOW-INCOME) THAT THE ETC WILL RECEIVE?

Q. HAS THE DIRECT TESTIMONY OF OTHER PARTIES CAUSED STAFF TO REVISE ITS RECOMMENDATION ON ISSUE II.A.4.?

A. No. OTA recommends a less rigorous and detailed application for carriers seeking only low-income support. *See* Exhibit OTA/1, Wolf/16. Staff disagrees. With regard to basic eligibility requirements, with one exception, all applicants for ETC eligibility should make the same commitments and demonstrations regardless of the type of support the ETC will receive. The only basic eligibility requirement that should differ based on receipt of only low-income funds is that such an applicant would not be required to submit a network improvement plan. The network improvement plan is intended to demonstrate how an ETC applicant will invest the universal service support funds that it expects to receive. Low-income funds are meant to flow-through to low-income customers and are not intended to be invested in network improvements. It follows that if an applicant expects to receive only low-income support, it should not be required to submit a network improvement plan with its application. However, if an applicant expects to receive low-income funds to cover the cost of toll-limitation implementation, use of those funds should be addressed as part of the requirement pertaining to the commitment to offer Lifeline and LinkUp services.

<u>ISSUE II.B. WHAT SPECIFIC CRITERIA SHOULD THE COMMISSION ADOPT TO DETERMINE WHETHER DESIGNATION OF A COMPETITIVE ETC IS IN THE PUBLIC INTEREST, AS REQUIRED BY SECTION 214(E)(2) OF THE TELECOM ACT?</u>

Q. HAS THE DIRECT TESTIMONY OF OTHER PARTIES CAUSED STAFF TO REVISE ITS RECOMMENDATION ON ISSUE II.B.?

A. No. Although OTA and Verizon offer recommendations that differ significantly from recommendations I made in my direct testimony for all public interest-related issues except Issue II.B.3, neither party presents compelling arguments in support of their positions. As explained under Issues II.B.1 and II.B.2 below, OTA bases its argument for a creamskimming test in rural ILEC areas on the fact that support is aggregated across rural ILEC study areas. However, in my direct testimony I recommended that the Commission require ILECs to disaggregate support. Such disaggregation would eliminate the basis for a creamskimming test. Under Issue II.B.4 below, I dispute OTA's arguments that disaggregation of support is beyond the scope of this investigation. I also explain why Verizon's arguments regarding support disaggregation are misguided.

Under Issue II.B.3, I disagree with RCC and USCC that the Commission need not consider in this docket whether CETCs must include entire ILEC wire centers in their designated service areas. This issue is important as it defines the allowable boundaries of designated service areas for CETCs. For the reasons I explain below, the Commission should require that entire ILEC study areas be included in a CETC's designated service area.

<u>ISSUE II.B.1. SHOULD THE COMMISSION ADOPT THE CRITERIA PROPOSED BY THE FCC IN ORDER 05-46?</u>

<u>ISSUE II.B.2. SHOULD THE CRITERIA DIFFER BETWEEN DESIGNATIONS IN RURAL AND NON-RURAL SERVICE AREAS?</u>

Q. HAS THE DIRECT TESTIMONY OF OTHER PARTIES CAUSED STAFF TO REVISE ITS RECOMMENDATION ON ISSUES II.B.1. AND II.B.2.?

A. No. I combine my replies to these two questions in order to avoid possible confusion regarding recommendations in my direct testimony. In answer to Issue II.B.1, I stated in my direct testimony at Exhibit Staff/1, Marinos/55-56, that the Commission should adopt the FCC's public interest criteria. I narrowed that discussion to address only the cost-benefit portion of the public interest criteria, leaving the matter of a creamskimming test to Issue II.B.2. It should be apparent from my direct testimony for both of these questions, that I support the cost-benefit analysis proposed by the FCC, but oppose the creamskimming analysis as part of the public interest test for ETC designations.

Q. DID OTA ADEQUATELY JUSTIFY A CREAMSKIMMING TEST?

A. No. OTA supports requiring a creamskimming test by explaining how the averaging of costs necessitates such a test. *See* Exhibit OTA/1, Wolf/20-21. However, if the Commission were to require the ILECs to disaggregate (de-average) traditional high-cost and interstate common line support (ICLS), this rationale for a creamskimming test would no longer exist. Staff agrees with RCC and USCC in this regard. *See* Exhibit RCC-USCC/1, Wood/27-38. The arguments presented by Staff, RCC, and USCC in direct testimony demonstrate that the reasons for requiring disaggregation of support are much more compelling than OTA's defense of the continuing need for a creamskimming test.

Q. DO YOU AGREE WITH OTA THAT THE COMMISSION SHOULD CONSIDER THE RESULTING IMPACT ON THE FUND AS PART OF THE PUBLIC INTEREST TEST WHEN DESIGNATING ANY PARTICULAR ETC?

A. No. Designation of any individual ETC is unlikely to have a significant impact on the federal universal service fund, given its current size. The FCC admits as much in paragraph 54 of its Order 05-46. Therefore, the Commission should consider each application based on the benefits that the specific carrier's designation would produce for Oregon consumers, not on the impact it would have on the universal service fund. OTA argues that the collective effects of "just one more" designation cannot be ignored, and therefore recommends that the Commission limit the number of CETCs that it designates in any given area. *See* Exhibit OTA/1, Wolf/18-19. The issue of limits on the number of ETCs is addressed under Issue II.B.5 below.

<u>ISSUE II.B.3. SHOULD THE COMMISSION REQUIRE AN ETC TO INCLUDE ENTIRE ILEC WIRE CENTERS IN ITS SERVICE AREA, REGARDLESS OF THE BOUNDARIES OF ITS LICENSED AREA?</u>

Q. HAS THE DIRECT TESTIMONY OF OTHER PARTIES CAUSED STAFF TO REVISE ITS RECOMMENDATION ON ISSUE II.B.3.?

A. No. RCC and USCC are the only parties that oppose requiring inclusion of entire wire centers in an ETC's designated service area. *See* Exhibit RCC-USCC/1, Wood/37-38. They argue that there is no record before the Commission on this issue, and no pressing need for the Commission to decide the matter at this time. They suggest that the Commission leave this question open to be determined on a case-by-case basis.

The Commission has considered this issue in past CETC designations in regard to <u>rural</u> ILEC service areas and has required inclusion of entire rural ILEC wire centers in the CETC's designated service area. However, the Commission has not directly addressed whether the same requirements should apply in <u>non-rural</u> ILEC service areas. For the reasons stated in my testimony at Exhibit Staff/1, Marinos/63-65, the Commission should require CETC designated service areas to include entire ILEC wire centers in both rural and non-rural ILEC service areas. If an applicant wishes to include only part of any ILEC's wire center in its designated service area, the applicant should demonstrate how granting an exception would serve the public interest in that specific instance.

<u>ISSUE II.B.4. WHETHER AND TO WHAT EXTENT THE COMMISSION SHOULD REQUIRE INCUMBENT LOCAL EXCHANGE CARRIERS TO DISAGGREGATE AND TARGET SUPPORT IN A DIFFERENT MANNER, AS PERMITTED BY 47 CFR SECTION 54.315 (C)(5).</u>

Q. HAS THE DIRECT TESTIMONY OF OTHER PARTIES CAUSED STAFF TO REVISE ITS RECOMMENDATION ON ISSUE II.B.4.?

A. No. Staff agrees with the arguments of RCC and USCC in favor of requiring disaggregation of support funds. *See* Exhibit RCC-USCC/1, Wood/38. The arguments set forth by Verizon and OTA in opposition to disaggregation of support are not compelling.

Q. ON WHAT BASIS DOES VERIZON OPPOSE DISAGGREGATION OF SUPPORT?

A. Verizon states at Exhibit Verizon/1, Fulp/6 that it only receives interstate access support (IAS) and low-income support, and that disaggregation is not relevant to the latter. Verizon misses the point. The disaggregation proposed in this docket would not affect these two types of support. Low-income support is not subject to disaggregation, and IAS support is already disaggregated. The support at issue is traditional high-cost support (high-cost loop and local switching) and interstate common line support (ICLS). In addition, Verizon opposes disaggregation of ILEC support below the exchange level, arguing that ILECs such as Verizon are not currently set up to disaggregate cost or revenue information to the wire center level. Verizon adds that support should be based on exchange boundaries, not wire center boundaries, because "the ILECs provide service using exchange boundaries as the market area." *See* Exhibit Verizon/1, Fulp/6-7. Staff does not understand Verizon's argument in this regard since Verizon has already disaggregated its per-line IAS support amounts to the wire center level, even in cases where an exchange includes multiple wire centers. For instance, Verizon's Murphy-Provolt exchange is comprised of two wire centers, Murphy and Provolt. The per-line IAS support amounts are different for each wire center, even though they are in the same exchange. Furthermore, the Oregon Universal Service Fund per-line support amounts are calculated on a wire center basis and differ between the Murphy and Provolt wire centers. The FCC has established wire centers, not exchange areas, as the geographical units for universal service support purposes.

Q. ON WHAT BASIS DOES OTA OPPOSE DISAGGREGATION OF SUPPORT?

A. OTA asserts that the support disaggregation issue is beyond the scope of this docket and is not a question for the ETC designation process. In addition, OTA quotes a sentence from Order 05-46 in which the FCC states that disaggregation is an inadequate tool to address creamskimming concerns. Finally, OTA argues that disaggregation should be considered only where it can be shown that the benefits outweigh the costs. *See* Exhibit OTA/1, Wolf/23.

As to the FCC's statement regarding support disaggregation, the testimony of RCC and USCC points out the FCC's inconsistencies in this regard. *See* Exhibit RCC-USCC/1, Wood/30-33. Staff disagrees with OTA's position that the support disaggregation issue is beyond the scope of this docket. The issue of disaggregation of high-cost support is integrally related to the issue of whether the Commission should adopt the creamskimming test in rural ILEC service areas as part of the public interest test. To the extent that aggregation, or averaging, of portable support amounts across entire ILEC study areas hinders efficient decision-making for CETCs, the issue is critical to achieving the goals of this docket. The Commission does not have to accomplish the actual disaggregation within this docket, but it should determine the need for disaggregation and open another docket to accomplish it. In that docket, the Commission can consider OTA's concern that the costs of disaggregation may exceed the benefits for any individual carrier.

<u>ISSUE II.B.5. SHOULD THE COMMISSION ADOPT AN UPPER LIMIT ON THE NUMBER OF ETCS THAT CAN BE DESIGNATED IN A GIVEN AREA? ANY PARTY PROPOSING ADOPTION OF AN UPPER LIMIT SHOULD EXPLAIN ITS PROPOSAL IN DETAIL, INCLUDING THE LEGAL BASIS FOR ITS POSITION.</u>

Q. HAS THE DIRECT TESTIMONY OF OTHER PARTIES CAUSED STAFF TO REVISE ITS RECOMMENDATION ON ISSUE II.B.5.?

A. No. Two parties, Verizon and OTA, support an upper limit on the number of ETCs in any given area. Verizon recommends designation of only one ETC in a rural ILEC area. *See* Exhibit Verizon/1, Fulp/7-8. OTA suggests designation of only one wireless CETC, in addition to the ILEC ETC. *See* Exhibit OTA/1, Wolf/24-25. Both parties base their recommendations largely on concerns about the size of the federal universal service fund. However, neither party sufficiently demonstrates how imposing such limits would serve the interests of telecommunications consumers in Oregon better than permitting the designation of multiple ETCs that meet the statutory requirements for eligibility. Staff agrees with RCC and USCC that a cap on the number of ETCs could limit competitive entry that would benefit end user customers. *See* Exhibit RCC-USCC/1, Wood/39-40.

<u>ISSUE III.A. WHAT SPECIFIC REQUIREMENTS SHOULD THE COMMISSION ADOPT FOR THE ANNUAL RECERTIFICATION OF ETCS?</u>

Q. HAS THE DIRECT TESTIMONY OF OTHER PARTIES CAUSED STAFF TO REVISE ITS RECOMMENDATION ON ISSUE III.A.?

A. Yes, in part. As explained below under Issue III.A.1, I have modified my recommendations regarding four proposed annual reports (network improvement plan update, unfulfilled service requests, customer complaints, and certification of compliance with consumer protection and service quality measures). I also provide clarification regarding two other annual certification requirements (certification regarding use of support funds and outage reports). I have not modified my recommendations under Issues III.A.2 through 4.

In addition, under Issue III.A.2 below, I clarify the annual reporting requirement related to advertising of the supported services.

<u>ISSUE III.A.1. SHOULD THE COMMISSION ADOPT ANY, OR ALL, OF THE FCC REPORTING REQUIREMENTS PROPOSED IN ORDER 05-46?</u>

Q. HAS THE DIRECT TESTIMONY OF OTHER PARTIES CAUSED STAFF TO REVISE ITS RECOMMENDATION ON ISSUE III.A.1.?

A. Yes. I have modified recommendations in my direct testimony regarding four proposed annual reporting requirements. First, in my direct testimony at Exhibit Staff/1, Marinos/83, line 2, I recommended that ETCs be required to update years 3-5 of their network improvement plans for annual reporting purposes. I now recommend that this requirement be dropped. I also clarify the level of detail recommended for the forecasts of support amounts that should be included in network improvement plan updates. Second, in my direct testimony at Exhibit Staff/1, Marinos/80-81, I recommended that all ETCs be required to submit annual reports on the number of “unfulfilled customer requests.” I now recommend that LEC ETCs be permitted to substitute “held order” service quality reports for “unfulfilled customer requests” reports. Third, in my direct testimony at Exhibit Staff/1, Marinos/81-82, I recommended that wireless ETCs be required to submit annual reports regarding customer complaints. I now propose that instead of complaint reports, wireless ETCs submit a version of “trouble” reports, and that wireline ETCs meet the same requirement by submitting or referencing trouble reports required by Commission rules. Fourth, to attain consistency with my revisions to the basic eligibility requirement that LEC ETCs commit to comply with applicable Commission rules concerning consumer protection and service quality (Issue II.A.1 above), I revise my recommendation at Exhibit Staff/1, Marinos/76, lines 4-6, regarding the associated LEC ETC annual certification reporting requirement.

In addition, I clarify details related to the annual certifications and affidavits regarding the use of support funds. I also clarify that for outage reports wireless ETCs should report details consistent with FCC requirements, and wireline ETCs should report details consistent with Commission rules.

Q. PLEASE EXPLAIN YOUR REVISED RECOMMENDATION REGARDING THE NETWORK IMPROVEMENT PLAN ANNUAL REPORT.

A. Upon further consideration and taking into account RCC's and USCC's discussions at Exhibit RCC-USCC/1, Wood/21-25 regarding their recommendations for the network improvement plan, I revise my direct testimony recommendation at Exhibit Staff/1, Marinos/83-84 that ETCs be required to update all five years in their network improvement plans for annual certification purposes. My revised recommendation is that for annual certification purposes, ETCs should update their plans for only the upcoming two years, and not for all five years as I recommended in my direct testimony. The entire 5-year period should be addressed only in applications for initial designation.

In addition, I clarify my statement at Exhibit Staff/1, Marinos/83, lines 21-23, to explain that the support forecasts in the annual report plan need not be as detailed as in the original designation plan, since the ETC will have had some experience regarding the amount of support it will receive after designation. The support forecasts in the annual report plan can be for the entire designated area, but should be shown by type of support fund (e.g., high-cost loop, local switching, ICLS and IAS). I do not change my direct testimony recommendations regarding any other elements of the network improvement plan.

Q. WHY HAVE YOU MODIFIED YOUR RECOMMENDATIONS REGARDING THE REPORTS RELATING TO UNFULFILLED SERVICE REQUESTS AND CUSTOMER COMPLAINTS?

A. I have considered RCC's direct testimony at RCC/2, Kohler/6-9 regarding the proposed customer complaints report, and Qwest's direct testimony at Qwest/1 Pappas/7 regarding ILEC held order reports. I have compared the annual reports recommended in my direct testimony with specific service quality reports that the Commission rules require LECs to submit on a regular basis. Three of the annual ETC reports that I recommended – the outage report, the unfulfilled service request report, and the customer complaint report -- address areas that are similar to reports required of LECs under the Commission's service quality rules. To maintain reasonable equivalency between wireless and wireline ETCs, I recommended in my direct testimony at Staff/1, Marinos/79-80 that both types of ETCs submit outage reports annually. After direct testimony was submitted, the Commission adopted the rules in docket AR 492 requiring LECs to file outage reports. Therefore, for outage reporting for ETC purposes, wireless carriers should report per FCC definitions for an outage report, and wireline carriers should report per Commission rule definitions. In order to achieve further approximate equivalency for reporting purposes, I now propose that the two other service quality-related reports – unfulfilled service requests and customer complaints -- be modified to recognize that many LECs submit comparable reports under the Commission's rules.

Q. WHAT IS YOUR REVISED RECOMMENDATION REGARDING THE ANNUAL REPORT THAT ADDRESSES UNFULFILLED SERVICE REQUESTS?

A. In my direct testimony at Exhibit Staff/1, Marinos/80-81, I recommended that all ETCs file annual reports on the number of unfulfilled service requests. Upon further review, it is clear that under the rules for "held orders for lack of facilities," e.g., OAR 860-023-0055(4) and OAR 860-034-0390(4), many LECs already submit a somewhat comparable report to the Commission on a regular basis. Therefore, I now recommend that LEC reports on the "total number of primary held orders for lack of facilities over 30 days past the initial commitment date" be accepted in fulfillment of the same requirement as the wireless carriers' report on the number of unfulfilled service requests. Although these measurements are not identical, they are sufficiently similar to be accepted as evidence regarding the ETC's commitment to provide service throughout its designated service area. The "unfulfilled service requests" required by the FCC rules appear to be those customer requests that the carrier ascertains it cannot fill after it has gone through the 6-step provisioning process to which it must commit for designation. LEC "held orders" on the other hand are orders that the LEC expects to fill, but has not been able to due to a lack of available facilities. Rather than require LECs to modify their reporting systems, the Commission should accept reports of primary held orders older than 30 days as sufficiently equivalent to the wireless carrier reports of "unfulfilled customer requests." LECs that already report held orders to the Commission on a regular basis should reference those reports. LECs that do not regularly file such reports should file a similar annual report as part of the annual recertification process. Alternatively, these LECs may choose to file unfulfilled service requests similar to those required of wireless ETCs.

Consistent with this proposed revision, I clarify that the supplemental requirements for the unfulfilled requests report recommended at Staff/1 Marinos/81, lines 1-10, should apply only to the ETCs that submit an unfulfilled request report. ETCs that submit held order reports should include any details required by Commission rules.

Q. WHAT IS YOUR RECOMMENDATION REGARDING THE ANNUAL REPORT CONCERNING CUSTOMER COMPLAINTS?

A. After considering RCC's testimony regarding the filing of customer complaint reports, I recommend that instead of "complaint" reports, all ETCs should file "trouble" reports.

I have considered the points made by RCC at Exhibit RCC/2, Kohler/6-9 concerning the definition of a "customer complaint" report. I also recall the differing viewpoints of Staff and RCC regarding complaint reporting when RCC filed its first annual ETC report last year. In direct testimony, RCC asserts that the FCC definition of “complaints” in its proposed complaint report is limited to customer complaints escalated to an agency outside the company, such as a governmental agency or the Better Business Bureau.

I proposed in my direct testimony at Exhibit Staff/1, Marinos/42, lines 17-22, that all ETCs be required to cooperate with the PUC’s Consumer Services Division to resolve any complaints that come through that office. This requirement is directed toward the consumer protection commitments made by ETCs. The commitment to resolve consumer complaints received by the Consumer Services Division does not adequately address concerns regarding network service quality, however.

I am unable to find a source for RCC’s interpretation of the FCC’s definition of complaints for ETC reporting purposes. Also, as a condition of granting RCC’s ETC designation in Order No. 04-355, the Commission required RCC to file annual complaint reports. In requiring these reports, the Commission stated that although it cannot regulate service quality of wireless carriers, it was still concerned that ETCs provide adequate service to customers. The Commission should continue to require some sort of complaint report as an indicator of service quality.

The comparable service quality report filed by LECs is the “trouble” report. Rules that pertain to these reports, such as OAR 860-034-0390 for small telecommunications facilities, define a trouble report as “a report of a malfunction that affects the functionality of retail telecommunications service on existing access lines, switching equipment, circuits, or features made up to and including the network interface, to a small telecommunications utility by or on behalf of that small telecommunications utility's customer." A similar definition should be adopted for wireless carrier's reports.

RCC witness Kohler suggests at Exhibit RCC/2, Kohler/9, lines 8-10, that RCC could file an annual trouble report "that lists every trouble call to a call center based on the telephone number of the originating call to the call center." RCC opposes requiring any specific categorization of complaints, particularly by wire center, and proposes that wireless carriers be permitted to use categories consistent with the existing systems. The FCC, in its quarterly complaints report on wireless carriers, uses seven service quality/coverage categories: dead spots, dropped calls, home area service, network busy signal, roaming availability, roaming service, and service interruption. *See* FCC "Quarterly Report on Informal Consumer Inquiries and Complaints," released November 4, 2005, pages 4-5, for the categories of wireless complaints used in the report. I suggest four categories: no service, network busy, interruption of service (including dropped calls), and poor reception. The wireless ETCs should report using these or similar categories. Reports of only aggregate troubles, with no categorization by type, would not be sufficiently useful in identifying whether the wireless ETCs are delivering quality service. The reports should be Oregon-specific and by wireless switch location. In addition, for consistency with LEC trouble reporting, wireless ETCs should report troubles per 100 Oregon customer handsets (not per 1,000 handsets as proposed by the FCC for complaint reports).

LEC ETCs that already file trouble reports with the Commission should reference their trouble reports in satisfaction of this requirement, rather than reference all service quality reports as Staff formerly proposed. *See* Exhibit Staff/1, Marinos/82. Wireline ETCs that do not file regular trouble reports with the Commission should submit annual trouble reports for each of their wire centers using the Commission's rules as a guide, or alternatively, using the requirements set out for wireless ETCs for the comparable report.

Q. DO YOU WISH TO REVISE YOUR RECOMMENDATIONS REGARDING ANY OTHER ANNUAL CERTIFICATION REQUIREMENTS?

A. Yes. Under Issue II.A.1 above, I revised my recommendation regarding the basic eligibility requirement that a LEC ETC applicant demonstrate its commitment to specific consumer protection and service quality measures. My revised recommendation in that regard is that LEC ETC applicants should specifically commit to compliance with "applicable Commission rules concerning consumer protection and service quality" in their applications. Now, under Issue III.A.1, which pertains to annual certification requirements that apply after the LEC has received ETC designation, I propose a similar revision to the corresponding annual certification requirement for LEC ETCs. At Exhibit Staff/1, Marinos/76, lines 4-6, I stated that LEC ETCs should certify annually that they are "in reasonable compliance with all applicable Oregon service quality standards and consumer protection rules." I now recommend that LEC ETCs certify annually that they are in compliance with "applicable Commission rules concerning consumer protection and service quality." This revision achieves consistency for the specific consumer protection and service quality commitments that must be made by LEC ETCs for both initial designation and annual certification.

Q. DO YOU WISH TO CLARIFY ANY OTHER REPORTING REQUIREMENTS THAT YOU RECOMMENDED IN DIRECT TESTIMONY?

A. Yes. I clarify my recommendation at Exhibit Staff/1 Marinos/75, lines 13-18, regarding the requirement that ETCs certify annually that they will use support funds for the intended purposes. ETCs that expect to receive IAS or ICLS funds should submit copies of the certifications that they file directly with the FCC and USAC on June 30 of each year. These are the annual certifications required under C.F.R. § 54.809 for IAS funds, and under 47 C.F.R. § 54.904 for ICLS funds. ETCs that expect to also receive traditional high-cost funds (high-cost loop and local switching support) should submit an additional, separate certification for the use of those funds. For traditional high-cost support, ETCs cannot certify directly to the FCC, but must be approved for certification by the state. According to 47 C.F.R. § 54.314, the states must certify to the FCC by October 1 of each year that the traditional high-cost support received by the ETCs will be used only for the intended purposes. To accomplish this certification in the past, the Commission has required each ETC that receives traditional high-cost support to submit a sworn affidavit, signed by a corporate officer, attesting that the carrier will use the support funds for the intended purposes. I recommend that the Commission continue to require these certifications annually for receivers of traditional high cost support funds.

I also clarify my recommendation at Exhibit Staff/1, Marinos/80 regarding outage reporting. Lines 13-17 of that page list the details that should be included in all annual ETC outage reports. I clarify that wireless carriers should include details consistent with FCC requirements for the report, but LECs should include details consistent with the Commission's applicable rules. LECs that are subject to Commission outage reporting requirements may simply reference the reports filed. Wireline ETCs that are not subject to the Commission's outage reporting rules should provide the details consistent with the type of report they choose to file, i.e., the wireless or the rule's outage report.

Q. HAVE YOU MODIFIED THE REQUIREMENTS MATRIX SUBMITTED AS EXHIBIT STAFF/3 IN YOUR DIRECT TESTIMONY TO REFLECT CHANGES IN YOUR RECOMMENDATIONS?

A. Yes. I include a revised matrix as Exhibit Staff/5.

<u>ISSUE III.A.2. SHOULD THE COMMISSION ADOPT OTHER REPORTING REQUIREMENTS?</u>

Q. HAS THE DIRECT TESTIMONY OF OTHER PARTIES CAUSED STAFF TO REVISE ITS RECOMMENDATION ON ISSUE III.A.2.?

A. No. RCC proposes adding the reporting requirements from Order 04-355 to the FCC requirements. *See* Exhibit RCC/2, Kohler/9-12. Staff's recommendation already takes these requirements into account by adding reporting requirements related to advertising and any special commitments made by, or special requirements imposed on, CETCs at the time of their initial designation. This also addresses Verizon's preference that the Commission retain these requirements. *See* Exhibit Verizon/1, Fulp/9. In addition to the FCC proposed reporting requirements (as modified) and those in Order 04-355, Staff also continues to support the addition of reporting requirements relative to low-income service offerings of all ETCs, including reports on toll restriction implementation.

Q. DO YOU WISH TO CLARIFY ANY RECOMMENDED REQUIREMENTS UNDER THIS ISSUE?

A. Yes. I wish to provide additional information regarding my recommendation at Staff/1, Marinos/86 that each ETC provide documentation that it advertised the supported services throughout the designated service area. This requirement was adopted from the annual reporting requirements imposed on RCC Minnesota by the Commission in Order 04-355 and on USCC in Order 04-356. It relates to the basic eligibility requirement that an

ETC must advertise the supported services throughout the designated service area. I do not wish to put a specific set of requirements on this report. However, the ETC should provide, at a minimum, a demonstration that it advertised the supported services to customers throughout its service area in the previous year. This demonstration should include the type of media used (e.g., newspaper, radio, internet, etc.), the general frequency of advertising, and evidence that the advertising was aimed to reach customers throughout the service area through one medium or another. Hard copies of at least four advertisements for the supported services that ran during the previous year should be included as well (noting the dates and locations of the advertisement). It should be noted that this specific demonstration should not include advertising for the low-income (Lifeline/Link Up) service offerings. Evidence of advertising for low-income offerings should be included with the report that specifically addresses low-income service offerings.

<u>ISSUE III.A.3. SHOULD THE SAME REPORTING REQUIREMENTS APPLY TO ALL TYPES OF ETCS – ILEC ETCS AND COMPETITIVE ETCS?</u>

Q. HAS THE DIRECT TESTIMONY OF OTHER PARTIES CAUSED STAFF TO REVISE ITS RECOMMENDATION ON ISSUE III.A.3.?

A. Only to the extent that I have revised my recommendations regarding the reporting requirements under Issue III.A.1 above. Each of the ILEC parties – Verizon, Qwest and OTA -- generally argue that they individually should not be subject to the same annual reporting requirements for universal service support purposes as non-ILEC ETCs. *See* Exhibits Verizon/1, Fulp/9-10; Qwest/1 Pappas/3-8; and OTA/1, Wolf/26-30. The ILEC parties argue that they already file numerous reports with the Commission and the FCC. Qwest asserts that additional reports should be required mainly to ensure that carriers that receive traditional high-cost support funds are using them for the intended purposes. Verizon quotes a Commission statement from Order No. 04-355 regarding the sufficiency of ILEC reporting. OTA argues that network improvement plans should be required only for non-ILEC ETCs and that ILEC ETCs should file only two of the FCC recommended certifications – those related to consumer protection and service quality, and emergency functionality.

Q. DO YOU FIND THESE ARGUMENTS PERSUASIVE?

A. No. While I agree that some ILECs already file various reports with the Commission, I have revised my recommendations to take into account comparable service quality reports filed by the LECs. However, only the larger ILECs file service quality reports; 12 smaller ILECs and 11 cooperative companies do not. Only the largest ILECs' basic service rates are regulated by the Commission. Many ILECs are not even required to file tariffs for the local exchange services for which they receive universal service support funding. No ILEC reports on all aspects of their universal service obligations as enumerated in the eligibility requirements for ETC status. Although all ILECs submit information to the PUC for OTAP low-income reimbursement, none submit evidence demonstrating that their offerings comply with the rules and are advertised as required.

Qwest's assertion at Exhibit Qwest/1, Pappas/3-4 that reporting is required only to demonstrate proper use of support funds is a very limited view of the purpose of annual reporting. Staff agrees with RCC's broader view that the purpose of reporting is to allow the Commission to monitor whether each ETC continues to comply with its conditions of ETC designation. *See* Exhibit RCC-USCC/1, Wood/41-42.

In my direct testimony at Exhibit Staff/1, Marinos/74, I argued that the Commission should attempt to achieve competitive neutrality in its selection of reporting requirements, to the extent reasonable and possible. In formulating my recommendations for reporting requirements, I have attempted to apply the same basic requirements to all ETCs, while making reasonable allowances for differences between wireless and wireline carriers.

I agree with the ILEC parties, however, that ILECs should not be required to file network improvement plans for the reasons stated in my direct testimony at Exhibit Staff/1, Marinos/89-90. In this regard, I disagree with

RCC's and USCC's recommendation that all ETCs be required to submit network improvement plans. *See* Exhibit RCC-USCC/1, Wood/41-42. It should be noted that the Commission's service quality rules require LECs to file service improvement plans if they miss service quality targets. This requirement offers a safety net that would trigger if a LEC's service quality falters.

In sum, the ILECs have not put forth convincing arguments as to why they should continue to receive universal service support funds without providing evidence on an annual basis that they are indeed meeting all of their universal service obligations.

<u>ISSUE III.A.4. SHOULD THE SAME REPORTING REQUIREMENTS APPLY REGARDLESS OF THE TYPE OF SUPPORT (TRADITIONAL HIGH-COST, INTERSTATE ACCESS/COMMON LINE, LOW-INCOME) RECEIVED BY THE ETC?</u>

Q. HAS THE DIRECT TESTIMONY OF OTHER PARTIES CAUSED STAFF TO REVISE ITS RECOMMENDATION ON ISSUE III.A.4.?

A. No. Qwest and Verizon suggest that reporting requirements could apply to ETCs that receive traditional high-cost support, but not to ETCs that receive only IAS or low-income support. Qwest asserts at Exhibit Qwest/1, Pappas/8-9 that IAS funds are not in any way tied to upgrading or maintenance of the supported services, and Verizon states at Exhibit Verizon/1 Fulp/11, lines 6-8, that IAS "is simply revenue to the Company that helps defray its overall costs of operating the already built out network that provides basic telephone service." Qwest further argues that IAS and low-income support are interstate in nature and are not offsets for intrastate costs. OTA notes that the state does not annually certify carriers to receive ICLS support; that certification is made directly at the federal level. OTA also notes that ICLS is an access replacement mechanism. See Exhibit OTA/1, Wolf/31. All of these arguments are without merit.

Q. ARE THERE DIFFERENCES BETWEEN TRADITIONAL HIGH-COST SUPPORT AND ACCESS-RELATED SUPPORT THAT JUSTIFY DIFFERENT TREATMENT FOR ETC ANNUAL REPORTING PURPOSES?

A. I agree with RCC and USCC that annual reporting requirements should be independent of the type of support received, just as the requirements for initial designation and ETC eligibility are. *See* Exhibit RCC-USCC/1, Wood/42. As I explained in my direct testimony at Exhibit Staff/1, Marinos/92-93, there is no difference warranted for annual reporting purposes. The ILEC parties argue as though they should be held less accountable for access-related support (IAS and ICLS) than for traditional high-cost support. While it is true that access-related support subsidies were originally recovered through interstate access charges, they are now recovered from the federal universal service fund, as is traditional high cost support. All forms of federal universal service support are recovered through the same charge on interstate users' bills. Furthermore, the fact that an ETC must certify directly to the FCC to receive access-related funds does not outweigh the fact that the state commission is the body that grants ETC designation. A carrier operating in Oregon cannot receive any type of federal universal service support until it is first designated as an ETC by the Commission. If the Commission determines that an ETC is derelict in carrying out any of its universal service obligations, the Commission can revoke that ETC's designation, thereby preventing it from continuing to receive <u>any</u> universal service funding.

This is not strictly an ILEC matter. CETCs also receive access-related support since IAS and ICLS are portable to competitors. The Commission reasonably should be concerned that CETCs are using these funds properly.

Lastly, the amount of access-related support received by ETCs in Oregon exceeds the amount of traditional high-cost support received by ETCs in the state. According to support amounts for Oregon displayed in Appendix HC02 of USAC's Fourth Quarter 2005 Report, IAS and ILCS support comprise 55% of total high cost support for Oregon ETCs. The same carriers that are concerned about the burgeoning size of the funds - Verizon, Qwest and OTA - appear not to be concerned about how over half of the current universal service support funds are being used. As the FCC has few, if any, checks on the carriers who receive these funds, the Commission must assume that responsibility in order to ensure that Oregon consumers are receiving the maximum benefits.

Q. ARE THERE ANY DIFFERENCES IN REPORTING REQUIREMENTS ASSOCIATED WITH THE RECEIPT OF LOW-INCOME SUPPORT FUNDS?

A. Yes, but only one. I have already stated in my direct testimony at Staff/1 Marinos/53, lines 10-19, that low-income support funds should not be included in any network improvement plans, since this type of support is intended to flow-through to the end user customer. It also follows that any ETC that receives only low-income support would have no network improvement plan requirements. However, any ETC that receives no support other than low-income support must still submit other annual reports to demonstrate that it continues to meet its overall universal service obligations and is providing quality service to low-income consumers. The Commission has a direct stake in this area because the state provides OTAP funds that supplement federal Lifeline/LinkUp low-income support received by all ETCs.

Q. DOES THIS CONCLUDE YOUR REPLY TESTIMONY?

A. Yes.

CASE: UM 1217
WITNESS: Kay Marinos

PUBLIC UTILITY COMMISSION OF OREGON

STAFF EXHIBIT 5

Requirements Matrix (Revised)

February 8, 2006

REQUIREMENTS MATRIX
INITIAL DESIGNATION AND ANNUAL RECERTIFICATION REQUIREMENTS
REVISED 2/8/06

ELIGIBILITY REQUIREMENT	APPLICATION REQUIREMENT	ANNUAL RECERTIFICATION REPORTING REQUIREMENT
1. Common carrier status	- Cite carrier authorization - Describe nature of services and licensed geographic area	None
2. Offer all supported services	- Commit to offer and advertise all services - Describe offering of each required service - Identify any required service not currently offered and explain when and how it will be offered - Submit local usage plan information demonstrating comparability with ILEC plans - Submit certification acknowledging carrier may be required to provide equal access	Report on services not offered at designation (CETCs only) Submit information describing local usage plan offers and rates, or reference tariffs if applicable
3. Advertise all supported services	- Commit to advertise services throughout the service area - Provide brief description of advertising plan	Submit evidence of advertising of supported services throughout service area for prior year
4. Offer all services throughout the designated service area (DSA)	- Commit to offer supported services throughout DSA - Define DSA: Supply map overlaying boundaries on ILEC wire centers - List ILEC wire centers by ILEC, CLLI code and indicate any WCs not fully included - Commit to provide service immediately inside network coverage and commit to provide service outside network coverage by employing 6-step plan in FCC 05-46	<u>Wireless</u> ETCs: Report number of unfulfilled service requests, noting location and describe attempts to provide service; briefly describe process in place to ensure that requests for service outside network coverage are received and recorded. <u>Wireline</u> ETCs: Reference filed reports for primary held orders > 30 days; otherwise, submit annual report for held orders or for unfulfilled service requests.
5. Offer services using either own facilities or combination of own facilities and resale of other carriers' facilities	- Describe own facilities and current coverage, include map of current network coverage and signal strengths - Identify any existing relevant resale or interconnection agreements	Update through network improvement plan – CETCs only
6. Offer and advertise Lifeline and Link Up low-income assistance & participate in OTAP	- Commit to offering required low-income services - Include plan for implementation, including advertising	Report on number of customers in program by ILEC study area, describe advertising during past year, submit advertised examples of offerings

ELIGIBILITY REQUIREMENT	APPLICATION REQUIREMENT	ANNUAL RECERTIFICATION REPORTING REQUIREMENT
7. Use support funds only for intended purposes	Submit affidavit for use of traditional high-cost support and copy of June 1 certification letter sent to FCC for IAS or ICLS	Submit new affidavit for use of traditional high-cost support and copy of June 1 certification letter sent to FCC for IAS or ICLS
8. Ability to remain functional in emergencies	Demonstrate in detail: 1) amount of backup power available, 2) ability to reroute traffic around damaged facilities, 3) ability to manage traffic spikes during emergency periods Describe current status of E911 implementation in detail	Certify ability to remain functional in emergencies <u>Wireless</u> ETCs: submit annual outage report per FCC specifications, including detail. <u>Wireline</u> ETCs: reference outage reports if filed; otherwise submit annual outage report using FCC or rules specifications Update E911 implementation status – wireless ETCs only
9. Consumer protection and service quality commitments	Commit to specific, objective measures for consumer protection and service quality, e.g., CTIA Consumer Code, or applicable Commission rules concerning consumer protection and service quality Commit to resolve complaints received by PUC; designate specific contact person	Certify compliance with specific standards, e.g., CTIA Code, or applicable Commission rules concerning consumer protection and service quality <u>Wireless</u> ETCs: submit annual trouble report by wireless switch. <u>Wireline</u> ETCs: reference trouble reports if filed; otherwise submit annual trouble report using rules guidelines or wireless ETC report guidelines
10. Formal network improvement plan	Submit network improvement plan addressing all required details (baseline view, 2-year detailed plan, and 5-year overview)	Report on network improvement plan progress in past year and update detailed plans for next 2-year period – CETCs only
11. Public interest test	- Demonstrate, with specifics, how designation will increase consumer choices - Demonstrate, with specifics, the advantages & disadvantages of service offerings - Demonstrate absence of creamskimming if proposing to serve only portion of rural ILEC service area that has not been redefined	Report on any special commitments made for designation – CETCs only

CERTIFICATE OF SERVICE

UM 1217

I certify that I have this day served the foregoing document upon all parties of record in this proceeding by delivering a copy in person or by mailing a copy properly addressed with first class postage prepaid, or by electronic mail pursuant to OAR 860-13-0070, to all parties or attorneys of parties.

Dated at Salem, Oregon, this 8th day of February, 2006.

Mike Weirich

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UM 1217
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