

**Before the  
OREGON PUBLIC UTILITY COMMISSION**

Disclosures and Procedures for Broadband )  
Internet Access Service Providers ) Docket No. UM 2040  
Contracting with Public Bodies. )

**COMMENTS OF CTIA**

CTIA<sup>1</sup> respectfully submits its comments in response to the questions posed in the Oregon Public Utility Commission (“Commission”) Staff’s Staff Timeline and Stakeholder Questions issued on September 18, 2020 in the above-captioned docket.

**I. Introduction**

On December 23, 2019, the Commission issued Order No. 19-449 in the above-captioned docket adopting the Staff’s recommendation to open a docket to investigate potential changes to the Oregon Universal Service Fund (“OUSF”) and factors affecting the OUSF. The impetus for opening the investigation is the pending expiration of the Stipulation entered in Docket No. UM 1481, and the Commission’s prior indication, in Order No. 16-093 in that docket, directing that an investigation of the OUSF would be initiated prior to the Stipulation expiring.

As it was when the OUSF began in 1994, universal service remains an important and relevant goal. CTIA’s member companies play a very large role in ensuring that all Oregonians, and indeed all Americans, are connected. In Oregon, there are 4 million wireless subscriber

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<sup>1</sup> CTIA – The Wireless Association® (“CTIA”) ([www.ctia.org](http://www.ctia.org)) represents the U.S. wireless communications industry and the companies throughout the mobile ecosystem that enable Americans to lead a 21st -century connected life. The association’s members include wireless carriers, device manufacturers, suppliers as well as apps and content companies. CTIA vigorously advocates at all levels of government for policies that foster continued wireless innovation and investment. The association also coordinates the industry’s voluntary best practices, hosts educational events that promote the wireless industry, and co-produces the industry’s leading wireless tradeshow. CTIA was founded in 1984.

connections<sup>2</sup> and 54% of adult Oregonians are wireless-only.<sup>3</sup> Keeping all these Oregonians connected has led to 46,455 wireless-related jobs in Oregon<sup>4</sup> and \$5.6 billion in GDP added to Oregon’s economy by the wireless industry.<sup>5</sup> The wireless industry is a key economic driver in the state and a key element for achieving Oregon’s universal service goals.

Recent statutory changes require OUSF contributions from wireless carriers and their customers for the first time.<sup>6</sup> CTIA and its members support the goal of universal service, and are interested in seeing the Commission pursue universal service in an efficient, technology-neutral manner. To that end, CTIA below provides its responses to Staff’s questions.<sup>7</sup>

## II. Responses to Questions Posed

### a. **Question 1: How should the Commission determine the cost of providing this service? Staff seeks comment on the use of a general methodology, other methodologies and what information/reporting should be required.**

CTIA does not have advice to offer regarding the methodology the Commission should use to determine the cost of providing voice service. However, when the Commission determines such costs, it should focus on isolating from other services the cost of providing a voice service. Under Oregon law, the Commission is tasked with using the OUSF “to ensure basic telephone service is available at a reasonable and affordable rate.”<sup>8</sup> CTIA below suggests

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<sup>2</sup> See Federal Communications Commission, “Voice Telephone Services: Status as of December 31, 2018 – State Level Subscriptions” (rel. Mar. 2020), available at <https://docs.fcc.gov/public/attachments/DOC-362882A1.pdf> (last accessed Oct. 22, 2020).

<sup>3</sup> See Nat’l Center for Health Statistics, Nat’l Health Interview Survey Early Release Program, “Wireless Substitution: Early Release of Estimates from the National Health Interview Survey, July-December 2019” (rel. Sep. 9, 2020), available at <https://www.cdc.gov/nchs/data/nhis/earlyrelease/wireless202009-508.pdf> (last accessed Oct. 22, 2020).

<sup>4</sup> See accenturestrategy, “How The Wireless Industry Powers the U.S. Economy” (2018), available at [https://www.accenture.com/\\_acnmedia/pdf-74/accenture-strategy-wireless-industry-powers-us-economy-2018-pov.pdf](https://www.accenture.com/_acnmedia/pdf-74/accenture-strategy-wireless-industry-powers-us-economy-2018-pov.pdf) (last accessed Oct. 22, 2020).

<sup>5</sup> See *id.*

<sup>6</sup> See S.B. 1603, 80<sup>th</sup> Leg. Assemb., 2020 Spec. Sess. (Or. 2020) (“SB 1603”).

<sup>7</sup> CTIA has not provided responses to all of Staff’s questions, but it reserves the right to respond to others’ comments on all questions.

<sup>8</sup> Or. Rev. Stat. § 759.425(1)(a)(A).

that the Commission’s definition of “basic telephone service” should be revised, but as currently defined it means offering “local exchange calling” and excludes broadband service.<sup>9</sup> The Commission is permitted to use OUSF funds to “encourage broadband service availability,”<sup>10</sup> but that goal is secondary and subordinate to the statutory mandate “to ensure basic telephone service is available at a reasonable and affordable rate.”<sup>11</sup> The Commission is specifically instructed to fund “basic telephone service ... not to exceed \$28 million per year,”<sup>12</sup> and, if funds are available, to transfer \$5 million per year to the Oregon Business Development Department (“OBDD”) to fund broadband.<sup>13</sup>

Accordingly, however the Commission determines costs, it must ensure that that the OUSF satisfies the statutory mandate to ensure basic telephone service availability at reasonable, affordable rates. This requires the Commission to focus on supporting voice service, not broadband. CTIA recognizes that modern networks tend to have the capability to provide both voice and broadband over the same network, but the Commission must isolate costs attributable to voice. Otherwise, the considerable costs of constructing broadband networks will inflate the costs attributed to providing narrowband voice services. Such a result should be avoided.

**b. Questions 2: What federal support amounts should be deducted?**

All federal high cost support recipients are required to offer voice service over their supported networks, and therefore all federal high cost support should be deducted when determining OUSF support amounts. In Oregon, incumbent local exchange carriers collect federal high cost support from the High Cost Loop Support program and the Connect America

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<sup>9</sup> Or. Admin. R. §§ 860-100-0005(1) and 860-032-0190.

<sup>10</sup> Or. Rev. Stat. § 759.425((2)(c)(A).

<sup>11</sup> Or. Rev. Stat. § 759.425(2)(a).

<sup>12</sup> Or. Rev. Stat. § 759.425(2)(b).

<sup>13</sup> See Or. Rev. Stat. § 759.425(2)(a)(1)(B).

Fund (“CAF”) programs (CAF Inter-carrier Compensation Support, CAF Broadband Loop Support, CAF Alternative Connect America Cost Model (“ACAM”) Support, CAF II Auction, CAF II Rural Digital Opportunity Fund, and CAF I Frozen Support). Support from all of these programs should be deducted when determining what OUSF support will be offered.

**c. Question 5: Should the Commission link support to the current high cost areas?**

The Commission has not reviewed high cost area designations in many years. It is possible that some areas currently designated as eligible for high cost support no longer warrant that designation. High cost support should be made contingent upon a current finding, not a stale designation from years ago. Only by identifying with particularity the high cost areas eligible for OUSF support can the Commission manage the fund efficiently. High cost areas should not include any area in which voice telephony is available from an unsubsidized competitor.

**d. Question 6: How should the Commission define competition? What information should be considered in evaluating the existence of competition? How often should an area be evaluated?**

When considering whether an area is eligible for OUSF high cost support, the Commission should determine whether an unsubsidized competitor is providing service in that area. If so, the Commission should consider such an area to have competition for the provision of services, and such an area should be ineligible for high cost support from the OUSF.<sup>14</sup>

**e. Questions 7: Are there areas that can be classified as ineligible or eliminated from consideration for eligibility because of non-subsidized competition or specific federal support?**

As stated immediately above, the presence of an unsubsidized competitor should render an area ineligible for high cost support. Similarly, areas where location-based federal universal

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<sup>14</sup> CTIA notes for the Commission that as used herein, a competitor should be considered an “unsubsidized competitor” if it receives no high cost subsidies to operate in the specific area in question.

service high cost support has been awarded should not receive funding from the OUSF. Under some of the federal universal service programs, carriers commit to providing services that must include voice service for a ten-year period. Providing state support in an area where a carrier has already committed to provide service for ten years is wasteful and inefficient.

**f. Questions 8: Should the definition of Basic Telephone Service be changed? If so, what should this definition include? Should a new definition be used in determining the benchmark?**

The Commission should align its definition of Basic Telephone Service with the federal definition of voice telephony in 47 CFR 54.101. The federal rules focus on the service’s functionality (voice telephony), rather than the regulatory classification (telecommunications service) that is found in the Commission’s rules. Additionally, the definition of Basic Telephone Service in the Oregon rules is outdated and not technology-neutral, using terms like “tone dialing capability” and “extended area calling. As consumer preferences for voice service are not driven by regulatory classifications, a definition that focuses on functionality is preferable.

**g. Question 11: By what methods can the Commission encourage Broadband service availability?**

For the Commission to encourage effectively the availability of broadband service, it should pursue technology-neutral policies. Such an approach is consistent with the statutory mandate that the Commission implement a “competitively neutral” OUSF.<sup>15</sup> It is also consistent with the technology-neutral statutory mandate to the OBDD. The Legislature assigned the OBDD the task of identifying where to make broadband funding from the State available, and indicated that the OBDD must consider speed thresholds, whether provided by “terrestrial

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<sup>15</sup> Or. Rev. Stat. § 759.425(1)(a).

wireline or wireless broadband.”<sup>16</sup> The Legislature recognized that broadband availability should be measured by speed, not technology, and the Commission should do the same. Recognizing that in modern networks, voice typically is a service offered over broadband networks, the Commission can promote broadband availability by adopting a technology-neutral approach to achieving the universal service goals for voice service.

If the Commission wishes to examine whether it can amend its rules and policies for the purpose of supporting broadband, then it should look to align its policies and goals with the OBDD’s and ensure a technology-neutral approach by both agencies. These are both important guiding principles that will assist the Commission to encourage broadband availability.

**h. Question 13. Should the Commission tie eligibility to maintaining COLR obligations?**

As CTIA expressed to the Commission during the Commission’s data collection for its report to the Legislature in response to HB 3065, any OUSF high cost support recipient should be required to relinquish its OUSF high cost support if relieved of its COLR obligation. CTIA was not alone in taking this position.<sup>17</sup>

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<sup>16</sup> SB 1603, § 5(6)(a).

<sup>17</sup> See, e.g., CenturyLink, Letter to the Commission “Re: HB 3065 COLR Investigation –Recommendations for Action” (August 6, 2020), available at <https://www.oregon.gov/puc/utilities/Documents/COLR-CenturyLink-Ziply-Recommendations.pdf> (last accessed Oct. 22, 2020) (“An ILEC would no longer be eligible to receive state USF for locations for which it relinquishes the COLR.”).

### **III. Conclusion**

CTIA looks forward to working with the Commission to identify efficient, technology-neutral OUSF policy changes that will help to achieve universal service goals in Oregon.

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