BEFORE THE PUBLIC UTILITY COMMISSION

OF OREGON

UM 2040/AR 649

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<tr><td>In the Matter of

THE PUBLIC UTILITY COMMISSION OF OREGON

Investigation of the Oregon Universal Service Fund.</td><td rowspan="2">Comments of Lumen Technologies on behalf of Qwest Corporation d/b/a CenturyLink, United Telephone Company of the Northwest, d/b/a CenturyLink, CenturyTel of Oregon, d/b/a CenturyLink and CenturyTel of Eastern Oregon, d/b/a CenturyLink</td></tr>
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Rulemaking to adopt rules pursuant to ORS 759.425.</td></tr>
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COMMENTS OF LUMEN

Lumen Technologies files these comments on behalf of Qwest Corporation d/b/a CenturyLink, United Telephone Company of the Northwest, d/b/a CenturyLink, CenturyTel of Oregon, d/b/a CenturyLink and CenturyTel of Eastern Oregon, d/b/a CenturyLink. Lumen appreciates the opportunity to comment on the proposed Oregon Universal Service Fund ("OUSF") rule changes in these matters. Lumen also attaches its comments filed on October 12, 2021 to be incorporated in the formal record in this docket.

It is unreasonable to expect that any cost model, including CostQuest's, will perform all the functions necessary to establish USF funding that is sufficient to ensure universal service. That is because the model is data focused and often the inputs are flawed that are necessary to compute the data (namely to cost to provide service). In addition, the Commission must apply the following adjustments to the raw cost data that the model generates: [1] calculate and apply a benchmark rate for basic telephone service; [2] identify and incorporate explicit subsidies into support calculations; and [3] allocate support for disbursement to carriers in a large company pool. In addition, even if a model could satisfactorily perform all of these tasks for all companies in Oregon, adjustments would have to be made to it annually to ensure the fund was appropriately sized and the distributions reflected any changes.

While a cost model may be able to perform some of the calculations described in draft rules, some of those calculations are better suited to alternative methods. For example, in determining an Oregon specific benchmark rate for telephone service (or multiple rates if ultimately deemed necessary), the methodologies published by the Federal Communications Commission ("FCC") to calculate a national average benchmark rate (as well as derivations of the FCC average using statistical analysis focused on standard deviation) are readily available. Specifically, those methods could be applied by the Commission to tariffed rates, using the FCC's mathematical algorithms, to develop an Oregon-based benchmark rate or rates.

In addition, Lumen recommends that the rules define the term "benchmark", consistent with the usage of that term in both ORS 759.425 and 47 CFR Part 54. Any new rules should also clearly delineate the manner in which each input is derived.

Regarding geographic units of measure for reviewing costs and apportioning support, Lumen believes that costs at the wire center level are appropriate in most instances. Using census blocks or census block groups rarely align well with wire center boundaries, making their use challenging for larger companies. Also, census blocks may encompass the serving areas of two or more providers, especially in more rural areas. Lumen notes that of its 165 wire centers in Oregon, its three largest wire centers are roughly equivalent in square mileage to all of the other small companies' service areas in Oregon combined. Using study areas that incorporate urban and rural serving areas could result in skewed results, including assigning OUSF support to areas that currently are unsupported.

If the rule bifurcates support between small and large companies, it must describe the precise methodologies for such a division. Moreover, the basis and methods for any proportional reductions where a shortfall in OUSF receipts is experienced must be explicitly defined. Any new rules that require the use of a cost model to allocate a large company pool must define what components of a cost model will be used for that purpose, and those rules must also precisely explain the basis for such allocations. If different methodologies are to be used for small and large companies, the basis for any distinction must be rational and well-defined, because the character of the areas where support is most needed is the same, regardless of the size of the company that serves them.

When companies were rate of return regulated, subsidies that were implicit in rates made explicit support unnecessary – revenue derived from urban areas implicitly subsidized the provision of service in rural areas. This is no longer the case. And price cap companies like Lumen receive substantially less in federal support, by several orders of magnitude, than they did before the implementation of the CAF and RDOF. Therefore, it is important that all companies receive support at similar levels based not on the size of the company, but on the characteristics of the areas they serve. Absent a rational basis for any differentiation, there is a risk the rules would be discriminatory under state and federal law.

Building upon questions posed in the OTA comments regarding costs for unseparated loops and switching, a better understanding of how any forward-looking cost model treats maintenance costs is essential. Any model that reduces maintenance expenses for a period of time under a presumption that newly placed plant requires less maintenance and repair has no basis in reality. A model must reflect the actual on-going operational expenses of maintaining an existing network.

Lumen has been committed to working with Staff and all stakeholders to address the new rules for this important program and appreciates the opportunity to comment. Lumen and other telecommunications utilities are subject to the carrier of last resort obligation and must maintain networks that are capable of serving every customer in their designated service territories, even when competitors serve in those areas – those competitors are not subject to the COLR and can cease providing service at any time.

At a minimum, current funding levels must be maintained if the telecommunications utilities are to continue to offer service to all customers in their territories as carriers of last resort.

Respectfully submitted this 19th day of July, 2022.

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October 12, 2021

Re: Docket UM 2040 Response to Staff Request

Lumen sincerely appreciates the opportunity to offer a proposal in this matter. We stop short of a more technical "straw proposal" for several reasons. First, any result in the Commission's newly opened rulemaking, Docket AR 649, must be fully considered in any proposal. Second, and more fundamental, the Commission is hamstrung by the existing law, which is based on decades old assumptions about technology, the cost to provide service, the nature of competition, and a regulatory compact the terms of which no longer exist. It will be difficult or impossible under current law to craft relevant policy that provides meaningful relief to Oregonians who most need it and to the companies that serve them.

While there are a very small number of customers who still prefer a copper landline telephone (plain old telephone service or "POTS"), the vast majority have chosen from myriad alternatives to POTS to satisfy their communication needs, including those offered by wireless, cable, competitive fiber, fixed wireless, satellite, and the numerous internet-based video and messaging alternatives to telephone. And our experience is that most of the very small number of POTS hold-out customers prefer it not because it is their only option for voice service, but rather because they believe that it is more reliable than internet-based (terrestrial and satellite) service alternatives. This is usually not the case. The consequence is that the Commission and the parties are left spinning their wheels trying to solve a modern problem using an outdated regulatory framework, and at great expense and effort to all parties involved. The decades old regulations currently in place cannot reasonably be expected to address the real issue in underserved communities – the demand for modern high-speed internet service.

History shows that this matter, even if informed by any outcome in the AR 649 rulemaking, will likely be contentious, protracted, and expensive. Lumen therefore urges the Commission to work with the parties to craft meaningful legislation to fundamentally reform telecommunications regulation, including regulation related to the carrier of last resort obligation and the universal service fund.

We understand that change is often accompanied by uncertainty and fear, but worse in this case is a policy outcome that fails to accomplish relevant objectives, that does not address the actual needs of Oregonians, and that results in unnecessary and wasteful expenditure of resources. We owe the citizens of Oregon more and Lumen is prepared to work in good faith with the parties, the Commission, and leadership across Oregon government to effect policy changes that instead achieve modern, relevant goals, that are productive and positive, and that result in real benefits to Oregonians.

Therefore, we urge the Commission to consider the following actions:

(1) Extend the current stipulation in Docket UM 1481, adopted by the Commission in Order No. 16-093, on March 4, 2016, for an additional two years, to the end of 2023, to allow the parties to re-write ORS Chapter 759 and to seek the approval of the legislature;
(2) Stay Dockets UM 2040 and AR 749 (or in the alternative conclude the rulemaking, but stay any implementation of any new rules to 2024); and
(3) Authorize the Commission's legislative policy staff to engage in discussions with the parties regarding how best to modernize the law.

Despite all prior appearances, the parties' interests are complementary. Lumen believes a "grand bargain" can be struck that reduces pressure on the USF and appropriately and equitably purposes it, provides meaningful changes to decades-old monopoly era regulation for which it believes there is no longer any rational basis, and ensures that Oregonians urban and rural, economically advantaged and disadvantaged, and everyone in-between get what they truly demand – fast and reliable broadband that satisfies all their communications needs. Technology and the marketplace have changed dramatically in the last twenty years, but even more rapidly in the last two years, largely because of the pandemic. The time to act is now.

We look forward to this great opportunity.

Respectfully submitted this 12th day of October 2021.

By: ______________________

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