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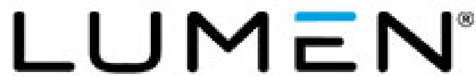

Attn: Filing Center
Oregon Public Utilities Commission
201 High Street S.E., Suite 100
Salem, Oregon 97301

Filed by email: puc.filingcenter@puc.oregon.gov

Re: AR 649/UM 2040 – Comments of Lumen Technologies

Dear Chair Decker, Commissioner Tawney, and Commissioner Thompson:

Lumen appreciates the opportunity to comment on the proposed Oregon Universal Service Fund ("OUSF") rule changes pertaining to calculation and distribution methodologies. As a sustaining member of the Oregon Telecommunications Association ("OTA"), Lumen concurs with the comments and questions filed by OTA. Lumen submits the following additional brief observations for the Commission's consideration.

Lumen believes that having expectations for any cost model, including Cost Quest, to perform all of the following is unlikely: [1] calculate a benchmark rate for basic telephone service; [2] calculate the costs of providing basic telephone service; [3] calculate the difference between the cost of service and the benchmark rate; [4] identify and incorporate explicit subsidies into support calculations; and [5] allocate support for disbursement to carriers in a large company pool. If in fact one model could indeed perform all of the above noted tasks for all companies in Oregon, licensing for such a model would likely need to be procured every year for which contemplated support adjustments may be required. This would impose a burden on the companies, the Commission and the OUSF.

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. As an 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 thereof using statistical analysis focused on standard deviation) are readily available. Specifically, those methods could be utilized by the OPUC Staff through the application of tariffed rates filed with the Commission to the FCC's mathematical algorithms to develop an Oregon-based benchmark rate or rates.

In addition, for the sake of clarity, 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.[1]

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.[2] The application of census blocks or census block groups rarely align well with wire center boundaries. Moreover, 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 possibly result in skewed results suggestive that support is necessary in 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 in instances where a shortfall in OUSF receipts is experienced must be explicitly defined. Further, any new rules that require the use of a cost model such as a Cost Quest product to allocate a large company pool must expressly set forth what components of a cost model will be used for that purpose, and those rules must also explain precisely the costs or other basis to be utilized for such allocations. In general, there must be a rational basis for using different methodologies for small and large companies. Areas where support is most needed are the same throughout Oregon, regardless of the size of the company that serves those areas. When companies were rate of return regulated, subsidies that were implicit in rates offset the need for support – revenue derived from urban areas implicitly subsidized costs in rural areas. Because that is no longer the case anymore, and because 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, it is important that all companies receive support at similar levels based not on the size of the company, but on the character of the areas they serve. Last, absent a rational basis for any differentiation, there is a risk the rules would be discriminatory and inconsistent with federal and state constitutional equal protection clauses.

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[1] The following are examples of potential descriptions of how inputs and outputs might be described in the rules: the benchmark rate shall be calculated using Oregon specific inputs to the FCC's Urban Rate Survey methodology; cost of providing basic telephone service shall be determined using the Cost Quest model or a similar product once every five years; the differences between the cost of service and the benchmark rate shall be determined by the Commission Staff with assistance from industry stakeholders; explicit subsidy types and amounts shall be identified from Universal Service Administrative Company data sources and amounts shall be obtained and published by OPUC Staff for review and comment for a minimum of 90 days prior to inclusion in support calculations.

[2] Lumen supports small rural carriers use of either wire centers or study areas for cost measurement and support disbursement purposes. However, use of study areas as a geographic unit of study for large carriers is problematic as a study area for large companies will likely include both dense urban and extremely rural areas, and in many instances certain portions of the dense urban areas may not be supported.

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 is committed to working with Staff and all stakeholders to address the new rules for this important program. As with many worthwhile endeavors, the early stages often generate more questions than are answered, and that appears to be the case here. These questions and concerns need to be addressed at the beginning of the process in order to develop a fair and equitable support program that accomplishes the goal of providing high-cost support in a competitive and transitioning industry to the benefit of Oregon consumers. If we do not do this work now, there will be unintended consequences and ultimately a result that does not serve the public interest.

Sincerely,

Tre Hendricks

Director of Government Affairs and
Associate General Counsel
CenturyLink