
November 15, 2021

Sent via electronic mail to puc.filingcenter@state.or.us

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

Re: UM 2040 Public Hearing Comments – 11/16/21

Chair Decker, Commissioners Tawney & Thompson:

ZiPLY Fiber appreciates the opportunity to comment in this matter. The future and stability of the Oregon Universal Service Fund is of the utmost priority to us. The benefit that thousands of Oregonians have received by the work of the telephone carriers who have received the proceeds from the fund is an immeasurable testament to what we can do when we work together.

The objective of the Oregon Universal Service Fund is to support voice services. Staff acknowledged that the current fund disbursements are woefully insufficient for this purpose as evidenced by the large LECs' annual OUSF Accountability Reports. There is no benefit if OUSF funds remain undisbursed at any time barring a shortfall, which is not the case here. The mere suggestion that this approach meets both the public policy intention of the OUSF as well as satisfies the obligations under which it was created simply does not reflect the intent of the Legislature.

The UM 1481 Stipulation was intended to ensure that the fund would not suffer the certain consequence of insolvency for the duration of its term (2016 through 2021). Since the passage of legislation increasing the types of participants in the fund, this threat no longer exists.

At the direction of the Commission at the November 2, 2021, Open Meeting, Staff convened a workshop on November 4 at 3pm. Staff began the workshop by stating that the intention of the discussion was not to come to an agreement (as Staff affirmed their unchanging position), but rather to collect positions from other stakeholders so they could be included, and arguably refuted, in their memo to the Commission. This non-collaborative approach to discussing the temporary emergency rules does nothing more than further disenfranchise the stakeholders. If the intention was for Staff to simply affirm their unwavering position that a reduction in

disbursements was warranted, the workshop was completely unnecessary since Staff had already established their position in their previously-issued memo.

Staff couldn't engage with stakeholders until July/August of this year because they could not predict the fund size to determine what would be available for distribution. It wasn't until mid-summer when Staff was able to provide relative clarity on fund size for 2022.

In a rare moment of unanimity, the Stakeholders recommended that Staff to freeze distribution amounts during 2022 at 2021 levels as that distribution amount would not exhaust the fund in 2022. All stakeholders concurred with by this position in writing on January 19, 2021. It would appear that Staff also concurred with this approach in their most recent Timeline published in UM 2040 (<https://edocs.puc.state.or.us/efdocs/HAH/um2040hah113310.pdf>), where the entry for 11/30/2021 states "Public Meeting – Staff to request temporary rulemaking to extend current stipulation/distributions".

It now appears that the Stakeholders' position had not been fully relayed to the Commission prior to comments during the open meeting by Rick Finnigan on November 2, 2021. If Staff portrays the Stakeholders as not working toward solutions collectively, that is simply false. Despite numerous workshops having occurred, the full spectrum of issues have not been aggregated, discussed, and dispensed with as to the effect each will have on the applicable stakeholders. Instead, Staff has repeatedly limited the focus of workshops on specific issues telling stakeholders that the related concerns that impact those issues are not the focus of the workshop or are not being considered in this docket.

ZiPLY Fiber respectfully requests that the Commission support the agreement the parties reached by continuing distributions in 2022 at amounts equal to those disbursed to the stakeholders in 2021. Otherwise, the Staff contention that the parties are aligned with Staff on a go-forward plan are simply incorrect, and this exercise takes on the appearance of a contested proceeding, rather than a workshop process supporting an emergency rulemaking.

Sincerely,



Jessica Epley
Vice President, Regulatory & External Affairs