Law Office of
Richard A. Finnigan
2112 Black Lake Blvd. SW
Olympia, Washington 98512

Richard A. Finnigan
(360) 956-7001
rickfinn@localaccess.com

Candace Shofstall
Legal Assistant
(360) 753-7012
candaces@localaccess.com

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VIA E-MAIL

Records Center
Oregon Public Utility Commission
PO Box 1088
Salem OR 97308-1088

Re: UM 2040 – Reply Comments of the Oregon Telecommunications Association

To Whom it May Concern:

The Oregon Telecommunications Association (OTA) is submitting these Reply Comments concerning the establishment of a distribution mechanism for the Oregon Universal Service Fund (OUSF) for 2024 and beyond.

In the Initial Comment round, only OTA and the Oregon Cable Telecommunications Association (OCTA) filed comments. Therefore these comments will reply to those filed by OCTA. The format for these Reply Comments will be to address the issues in the order raised by OCTA.

1. The argument of OCTA that support should be limited to lines actually served by eligible carriers ignores the carrier of last report obligation.

OCTA argues that OUSF support should be provided only for locations actually served by eligible telecommunications carriers. However, this ignores the fact that eligible telecommunications carriers are subject to the carrier of last resort obligation.[1] Competitive carriers do not bear the same burden. In other words, the incumbent local exchange carriers (ILECs) are required to build a network that is capable of serving all locations within their service area, whether they actually provide service or not.[2]

Since the issue in this docket is support for a network that provides telecommunications services throughout a specific geographic area, it is the cost of the network that should be the driver, not whether a particular location is served or not.

[1] ORS 759.506.
[2] The obligation can also be met by being willing to build to new locations in addition to having a network capable of serving the existing locations. But the obligation still exists that the network must be available on a ubiquitous basis.

2. Allocation of network costs is inappropriate.

OCTA argues that only a portion of the network should be supported since the network also provides broadband services. This argument has been addressed by OTA in its Initial Comments. The gist of the reply is that the entire network is needed to provide basic telephone service. Trying to allocate the cost of the network between telecommunications service and broadband service is an exercise in futility. The network, the entire network, is needed to provide basic telephone service. You cannot take part of the network away and still have a network that provides basic telephone service.

3. OCTA's argument that areas served by "unsubsidized" competitors should not be supported ignores the requirements of ORS 759.425.

OTA agrees with the Staff position used for the 2023 distributions on not deducting costs that could theoretically be associated with the presence of a "unsubsidized" competitor. Under ORS 759.425(4)(a) the only deductions that are allowed from the cost of providing service are the benchmark, and "explicit compensation received by the telecommunications carrier from federal sources specifically used to recover local loop costs and less any explicit support received by the telecommunications carrier from the federal universal service program." The presence of an unsubsidized competitor is not included in this statutory formula. Nowhere does the statute say " and less any costs in an area served by an unsubsidized competitor." The issue is simply not a factor in the determination of the level of OUSF support.

As a practical matter, OTA's rate of return members have not received a reduction in federal support due to the presence of an unsubsidized competitor. What this suggests is that there really is not an issue that should be pursued under the rubric of "unsubsidized" competition.

Even if the concept of unsubsidized competition were a valid construct to reduce draws from the OUSF, it should never be used to size the fund. Doing so would inequitably lower the OUSF support for a company that does not have an unsubsidized competitor. To illustrate: Company A has unsubsidized competitors. Company B does not have unsubsidized competitors. If the presence of unsubsidized competitors in Company A's service area is used to reduce the total size of the fund, Company B loses support even though it does not have an unsubsidized competitor.

4. OCTA arguments concerning: (1) the ECUL or subscriber line charge; and (2) intercarrier compensation support mischaracterize the nature of those items.

OCTA argues that EUCL should be deducted from the support mechanisms. EUCL stands for end user common line charge. It is also known as the subscriber line charge or SLC. EUCL is a mechanism developed by the FCC to lower the cost of toll service, focusing on interstate toll service. It is not an "explicit compensation . . . received from federal sources."[3] Rather, it is a rate element in the NECA tariff (for rural carriers) or individual company interstate tariffs (for price cap carriers). This means that EUCL is interstate end user revenue. Thus, it does not meet the statutory definition of an authorized deduction.

OCTA argues that CAF ICC[4] should be a reduction from the levels of cost that are used to determine the support. However, CAF ICC is not a universal service support mechanism. It is a replacement of intrastate and interstate terminating access charges. It is not "specifically used to recover local loop costs as required by ORS 759.425." It is also not part of the FCC universal service rules. Those rules are in Part 54. CAF ICC is in Part 51 which deals with access charge recovery.

5. Benchmark Issues.

OCTA also raises an issue related to the appropriate benchmark. OTA's Initial Comments have already addressed the issue of the benchmark and those comments will not be repeated here.

<u>Conclusion</u>

OTA respectfully requests that the Commission accept the arguments put forth by OTA. The positions taken by OCTA do not have merit and should not be adopted.

Sincerely,

RICHARD A. FINNIGAN

RAF/cs

cc: Client (via e-mail)
Service List

[3] ORS 759.425. Thus, it should not be a deduction.
[4] OCTA mistakenly refers to this Intercarrier Compensation Support in its Initial Comments.