

ORS 759.425(3)(a) states that:

The commission shall establish a benchmark for basic telephone service as necessary for the administration and distribution of the universal service fund. The universal service fund shall provide explicit support to an eligible telecommunications carrier that is equal to the difference between the cost of providing basic telephone service and the benchmark, less any 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 a federal universal service program.

Under ORS 759.425(3)(b), the Commission is required to periodically review the benchmark and adjust it as necessary to reflect:

- (A) Changes in competition in the telecommunications industry;
- (B) Changes in federal universal service support; and
- (C) Other relevant factors as determined by the commission.

OAR Chapter 860, Division 100 contains the existing administrative rules governing the OUSF. The Commission recently adopted revisions specific to the OUSF distributions in Docket No. AR 649, with the rule changes effective July 27, 2022. Now, under OAR 860-100-0300(2), the Commission uses the Cost Quest model, or a similar model approved by the Commission, to calculate support amounts. The model is used to set a benchmark, calculate the cost of providing basic telephone service, and to calculate the difference between the two, minus the compensation and support identified in ORS 759.425. When the cost exceeds the benchmark in a geographic support area, the area may be designated as requiring support from the OUSF.

Per OAR 860-100-0300(3), Commission Staff must prepare a report on or before October 31 detailing the calculation of the required support amount for Commission review and approval. Upon approval by the Commission, the available amount to be disbursed from the OUS Fund is distributed as provided under OAR 860-100-0300(3)(a)-(c).

Analysis

Background

Docket No. UM 2040, Staff Investigation into the Oregon Universal Service Fund, was opened in December 2019 for purposes of reviewing various issues that a previous investigation into the OUSF (Docket No. UM 1481) had not resolved. UM 2040 was

from the beginning viewed as policy development with the results being transferred to a permanent rulemaking.

Currently, the docket is split into two phases: Phase I to focus on the calculation of disbursements, and Phase II to address accounting and operational issues.

Phase I: Although ORS 759.425 gives a high-level guidance on how disbursements are to be calculated, a process to set a benchmark and a methodology for calculating disbursements were needed going forward. Staff held six workshops, issued information requests, and after receiving comments and straw proposals, opened the informal stage of the rulemaking on September 21, 2021 (AR 649), which included further workshops. Staff drafted proposed rules reflecting the agreed upon approach, and after further discussion and comments, permanent rules were filed with the Secretary of State on July 26, 2022.

Summary and Discussion

At the time of the AR 649 rulemaking, Staff and stakeholders acknowledged that although the rules provided further guidance in stipulating the model to be used in the calculation of the cost to provide basic telephone service, the model results still had to be analyzed and filtered, a benchmark had to be determined, and an applicable federal support deduction identified in order for Staff to make its recommendations to the Commission.

Staff held three additional workshops to discuss results based on the Cost Quest model and at the final workshop, Staff asked stakeholders to work together and if in agreement, to put to Staff a stakeholder recommendation for Staff's review. The stakeholders held meetings, but on September 13, 2022, informed Staff that they had not reached an agreement as to methodology, nor expected to do so. The main areas of disagreement were the inclusion or exclusion of areas that contain unsubsidized competitors, the calculation of the benchmark, and the percentage allocation of the network to basic telephone/voice services.

As the OARs dictate that disbursement should be calculated for 2023 and 2024 (and every five years after that) and considering the need to get disbursement in place by mid-October, Staff recommends the Commission approve the disbursement amounts for calendar year 2023 as set forth in Attachment 1. The recommended disbursement is based on model runs using the Cost Quest model. This model was used to calculate an average monthly cost per demand location, which was then set as the benchmark. Staff applied the benchmark to identify census blocks with a monthly cost above the benchmark, and therefore eligible to receive support.

Staff summed the total monthly costs above the benchmark for each applicable census block, multiplied by total demand and annualized the amount. Federal support was then deducted; specifically, High-Cost loop support, Broadband loop support, and amounts provided under the Alternative Connect America Cost Model. This provides a total amount of support for a fiber to the home network. As a fiber to the home network is used to provide more services than simply voice service, 30 percent of network costs were allocated to support for voice service. As a result, the recommended total disbursement from the OUSF for calendar year 2023 is \$26.4 million. This amount is below the statutory limit of \$28 million.

Stakeholders were given a copy of the calculations included in Attachment 1 on September 15, 2022, and asked to comment.

Staff received comments from both Oregon Cable Telecommunications Association (OCTA) and Oregon Telephone Association (OTA).

OCTA commented that it believed Staffs calculations to be methodologically incorrect. OCTA contended that:

1. Both End User Common Line charge (EUCL) and Intercarrier compensation (ICC) should also be deducted as federal support.
2. Support should be limited to locations actually served by the Incumbent Local Exchange carriers (ILECs).
3. There should be no support for areas that contain unsubsidized competitors

OTA commented that it was willing to accept the proposal for 2023 on the understanding that none of the assumptions were precedential for future calculations. OTA also commented that:

1. Both EUCL and ICC should not be deducted as federal support
2. Carrier of Last resort (COLR) obligations require ILECs to service all locations and therefore all locations should be included in the support totals.
3. Areas with unsubsidized competition should not be excluded from the support calculation
4. OTA disagrees that there should be any allocation of the network between services.

Staff did not adjust its recommendation based on comments received to date. Under ORS 759.425, the federal support deduction applies to two types of compensation: compensation received from federal sources used to recover local loop costs and any

explicit support from a federal universal service program. Staff did not deduct either the EUCL or ICC.

The EUCL is a flat per-line fee that ILECs may assess on customers to recover a portion of the costs associated with transporting interstate calls on the ILECs' local facilities. In previous discussions with Stakeholders regarding the Federal Support deduction element of the disbursement calculation, this federal program has never been included. OTCA contends that this program falls within the statutory provisions of ORS 759.425, OTA contends they do not, and that apart from it not being "specifically used to recover local loop costs," it is also not treated as revenue for NECA pool participants. Staff is currently not comfortable in deducting these amounts until further analysis has been concluded.

The ICC is CAF support for the replacement of a portion of intercarrier terminating access charges that non-price cap incumbent local exchange carriers may elect under 47 CFR 51.917, governing transitional access service pricing. Support is based on program eligibility as determined under 47 CFR 51.917 and administered under 47 CFR 54.314. OTA contends that this is not a universal service support program, OTCA contends that it is.

Conclusion

At the time of writing this memo, it is Staffs' opinion that neither EUCL nor ICC should be deducted. Nor does Staff find limiting support to locations currently serviced or areas without unsubsidized competitor to be necessary under ORS 759.425. Support is intended to fund basic telephone service network for Oregonians. Additional comments on these subjects and Staff's recommendation in general are welcome to be filed for consideration prior to the public meeting of October 18, 2022.

Staff also remains open to considering additional information on these issues in the coming year.

Staff notes that the resulting disbursement amounts are more or less in line with the current disbursements in calendar year 2022. However, this calculation does not set a precedent for future calculations, as Staff is required to make a recommendation by October 31 of 2024, based on the circumstances at the time of its report. Staff intends to engage further with stakeholders before preparing the Staff report for 2024, soliciting further comment on the areas of contention listed above, and refining its analysis.

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October 3, 2022
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PROPOSED COMMISSION MOTION:

Approve the disbursement amount from the OUSF for calendar year 2023 as detailed in Attachment 1 to support basic telephone service.

PMM UM 2040

OREGON PUBLIC UTILITY COMMISSION STAFF: Docket No. UM 2040

Attachment 1

Oregon Universal Service Fund

	\$'000
Summary of 2023 Support Disbursements	
Total 2023 Support Disbursements	26,374
Large Pool - Price cap carrier census blocks (includes \$1.3m for Warm Springs Telecommunications Company)	19,253
Small Pool - Rate of return carrier census blocks	7,121

2023 Support Disbursement Allocation	
Large Pool - Price cap carrier census blocks	Allocation based on CostQuest model run 1
Large Pool – Warm Springs Telecommunications Company	\$1.3m based on Model Run 1, \$71.06 benchmark and 100% network allocation
Large Pool - CLECS	2022 per line amounts
Small Pool - Rate of return carrier census blocks	Allocation based on Historic cost model (Form I)

Disbursement Calculation details	\$'000	
Large Company Census Blocks	104,062	Cost Quest Model Run 1 – 8.50% Cost of Capital Total Annualized: operating and capital expenses less the benchmark X demand locations for all census blocks that have a monthly cost per demand location above the benchmark.
Small Company Census Blocks	29,637	Cost Quest Model Run 2 – 9.75% Cost of Capital Total Annualized: operating and capital expenses less the benchmark X demand locations for all census blocks that have a monthly cost per demand location above the benchmark.
Total Gross Support	133,699	
Less Federal support:	(45,785)	Amounts per USAC 2021. High-Cost Loop Support, Broadband Loop Support and Alternative Connect America Cost Model Support
Total Net Support	87,914	Net Required Support for a FTTH network
Total Net Support X 30% = 2023 Support Disbursement	26,374	30% - portion of the network allocated to a voice service.

Benchmark and Network Allocation		
Cost Quest Model Run for benchmark determination	Run 1	Run 1 – Cost of Capital 8.50%
Benchmark ILECS	\$94.74	Average monthly cost per demand location
Benchmark Warm Springs Telecommunications Company	\$71.06	75% of ILEC benchmark
BTS Network %	30%	
BTS Network % Warm Springs Telecommunications Company	100%	