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October 26, 2020

VIA E-MAIL

Public Utility Commission of Oregon
PO Box 1088
Salem, OR 97308-1088

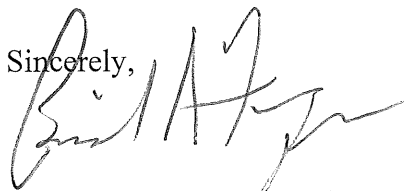
Re: UM 2040 –Oregon Telecommunications Association Response to Stakeholder
Questions

Dear Sir/Madam:

Attached you will find the above referenced Response to Stakeholder Questions.

If there are any questions concerning this Response to Stakeholder Questions, please
contact the undersigned.

Sincerely,



RICHARD A. FINNIGAN

RAF/cs
Enclosure

cc: Client (via e-mail)

BEFORE THE PUBLIC UTILITY COMMISSION
OF OREGON

UM 2040

In the Matter of
PUBLIC UTILITY COMMISSION OF
OREGON

Investigation of the Oregon Universal Service
Fund.

OREGON TELECOMMUNICATIONS
ASSOCIATION RESPONSE TO
STAKEHOLDER QUESTIONS

On September 18, 2020, Commission Staff issued a document entitled Staff Timeline and Stakeholder Questions. Staff requested that stakeholders reply to a set of questions set out in that document by October 26, 2020 (“Staff Questions”). This filing constitutes the responses of the Oregon Telecommunications Association (“OTA”) to the Staff Questions.

As a preliminary matter, OTA will address a procedural issue, OTA’s view of the core issue of support of the network and a substantive matter. The procedural issue has to do with the proposed timeline.

OPENING COMMENTS

Under the proposed timeline, Staff will circulate a strawman proposal on December 14, 2020. Stakeholder comments on the Staff proposal are currently proposed to be due January 6, 2021. From OTA’s perspective, that time frame is both awkward and short. As proposed, it would mean that OTA would have to try to organize its comments over the Christmas and New Years holidays when many of OTA’s members are taking time off. In addition, the three week

time period seems very short for such an important matter. As a result, OTA recommends that the time line be extended so that stakeholder comments are due February 5, 2021, and the rest of the dates be extended proportionately.

From OTA's perspective, it is very important that as the parties go through this proceeding we keep in mind that the real focus of the OUSF should be on support for the network that provides Basic Telephone Service and access to broadband services. It is the cost of the network, both ongoing costs to maintain the current network and the construction costs for the development of a more robust network, that will provide the telecommunications and broadband services that Oregonians need. With this thought in mind, OTA will now to raise a substantive matter.

As the preliminary substantive matter, the introduction to the Staff Questions contains a qualifying parenthetical statement that OUSF support is provided in high cost areas with no unsubsidized competition. That is a premise that has no basis in statute. Simply put, the concept of unsubsidized competition is not in statute. Under ORS 759.425(4)(a) OUSF support is to be provided to eligible telecommunications carriers in an amount that is equal to the difference between the cost of providing basic telephone service and the bench mark less any explicit compensation received by the carrier from federal sources specifically used to recover local loop costs and less any explicit support received by the carrier from a federal universal service program. The statute does not contain a concept that an eligible telecommunications carrier is disqualified if there is "unsubsidized competition" or that support is reduced if there is an "unsubsidized competitor." Further, the concept of unsubsidized competitors has not been defined. Nor has the concept been considered by the Commission. Before any premise can be

advanced concerning unsubsidized competition there would need to be a full hearing and full litigation of the concept and its consequences.

With those preliminary matters having been stated, OTA will now turn to the list of question advanced by Staff. The format for OTA's comments will be to set out the question and then to provide a response.

RESPONSE TO QUESTIONS

1. How should the Commission determine the cost of providing this service? Staff seeks comment on the use of a general methodology, other methodologies and what information/reporting should be required.

RESPONSE: The cost of providing service for rural incumbent local exchange carriers can be determined by review of the Form I that is filed with the Commission; specifically separated results of operations for regulated services. For those eligible telecommunications carriers ("ETCs") that do not file a Form I, the ILEC's cost of service for the exchanges in which they operate might be considered as a proxy. For Lumens and Ziply, a methodology was developed in the course of UM 1481 to determine support on an exchange by exchange basis and could be brought forward to be used again.

2. What federal support amounts should be deducted?

RESPONSE: Under ORS 759.425(4)(a), the statute requires that any amounts related to local loop support or a universal program administered by the Federal Communications Commission be deducted. This means that CAF II support and high cost loop support should be deducted. CBOL (Consumer Broadband Only Loops) support would not be deducted. The reason for this is that the costs for the provisioning of that service are transferred to the interstate jurisdiction and would not have been included in the calculation of the cost of providing basic telecommunications service.

For A-CAM companies there may be a complication. A-CAM support is in part, and only in part, a replacement for high cost loop support. In the case of the A-CAM companies there should be an allocation of a portion of the A-CAM support that they receive and a deduction of the allocated portion. One possible method is to use the 2016 high cost loop support for each A-CAM company as a proxy for that portion of the A-CAM support that would be applicable as high cost loop support. The reason to use 2016 is that was the last year before the A-CAM process took hold. There may be other possible ratios to review. At this point OTA is not advocating any particular methodology, but has provided an example to stimulate thinking on the issue.

3. How should the benchmark be defined and calculated?

RESPONSE: This is a very difficult area. It is an area that would need a lot of work to be performed by all of the stakeholders. In the past, Commission Staff has used the benchmark as a means of controlling the size of the fund, so it is not clear that the benchmark as it exists now has a relationship to the cost of providing local telecommunications service. However, having said that, for efficiency purposes the existing benchmark could be used as a proxy to allow matters to proceed.

4. How shall the Commission identify high cost areas and at what geographic level?

RESPONSE: The high cost areas have already been identified. For rural incumbent local exchange carriers, it is the study area. For price cap companies, the existing methodology identifies which exchanges are high cost and which are not on an exchange by exchange basis. That methodology should be retained.

5. Should the Commission link support to the current high cost areas?

RESPONSE: OTA does not quite understand what is meant in the Staff Question by the term “link support.” That aside, OTA’s position is that support should be targeted to current high cost areas.

6. How should the Commission define competition? What information should be considered in evaluating the existence of competition? How often should an area be evaluated?

RESPONSE: As stated in the opening comments, the premise that the presence of unsubsidized competition removes OUSF support is a premise that is contrary to the statutory terms. In addition, there has been no hearing or other proceeding by which the questions that are posited in Question 6 can be determined.

7. Are there areas that can be classified as ineligible or eliminated from consideration for eligibility because of non-subsidized competition or specific federal support?

RESPONSE: Please see the foregoing discussion regarding unsubsidized competition. OTA does not understand how a high cost area could be determined as ineligible or eliminated from consideration for eligibility because of specific federal support. What support does Staff have in mind?

8. Should the definition of Basic Telephone Service be changed? If so, what should this definition include? Should a new definition be used in determining the benchmark?

RESPONSE: OTA thinks that this issue should be reviewed. However, the review should be in a different proceeding. This will become a very complicated matter and will take a great deal of time. For example, one of the things to consider is the role of broadband access in a definition of Basic Telephone Service.

9. If the amount of calculated support exceeds the amount of available funds, how should the funds be allocated?

RESPONSE: Support should be prorated among the eligible companies.

10. Should a distribution be made directly to carriers or be passed through to individuals?

RESPONSE: OTA's position is that support should be directed to carriers. As noted in the introductory comments, support is really for the network that can provide the services to consumers.

In addition, before any idea of support being passed through to individuals is considered, there would have to be a thorough exploration of what the administrative costs would be created under such a proposal. Currently, the administrative costs for the OUSF are relatively low because support is targeted to carriers for the cost of building and monitoring the networks that provide the services.

11. By what methods can the Commission encourage Broadband service availability?

RESPONSE: The Commission can encourage the availability of broadband access service by providing the maximum amount of funding available. As more and more individuals rely on broadband for education and work, the state support through the OUSF and other means to expand broadband and to support existing broadband is critical.

12. Are there classes of companies the Commission should classify as not eligible for support?

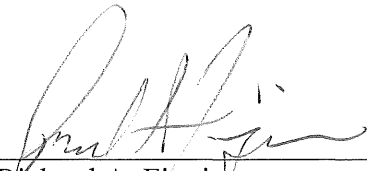
RESPONSE: A company should be an ETC to be able to receive support. In addition, anyone who receives support should have the obligation to provide service throughout the area for which support is provided. A carrier should be paying into the OUSF before it is eligible for support. In short, the current methods for determining eligible carriers should be retained.

13. Should the Commission tie eligibility to maintaining COLR obligations?

RESPONSE: Yes. OUSF support should be tied to the performance of COLR obligations.

The reciprocal of that is that a company should be eligible to be relieved of COLR obligations in areas where the company does not receive OUSF support.

Respectfully submitted this 26th day of October, 2020.



Richard A. Finnigan
Attorney for the Oregon
Telecommunications Association

CERTIFICATE OF SERVICE
UM 1017

I certify that I have this day sent the attached Comments of the Oregon Telecommunications Association Response by electronic mail to the following:

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I further certify that I have this day sent the attached Comments of the Oregon Telecommunications Association by electronic mail to the following parties or attorneys of parties:

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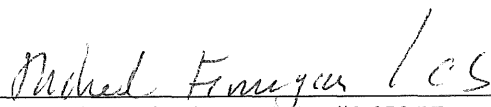
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17 Dated at Olympia, Washington, this 26th day of October, 2020.

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