

**BEFORE THE PUBLIC UTILITY COMMISSION
OF OREGON**

DOCKET NOS. UM 2040/AR 649

In the Matter of

PUBLIC UTILITY COMMISSION OF
OREGON,

Investigation of the Oregon Universal Service
Fund.

OCTA COMMENTS
REGARDING COST
CALCULATION OPTIONS

In the Matter of

PUBLIC UTILITY COMMISSION OF
OREGON,

Rulemaking to adopt rules pursuant to
ORS 759.425.

OCTA COMMENTS REGARDING COST CALCULATION OPTIONS

The Oregon Cable Telecommunications Association (“OCTA”) hereby submits its Comments Regarding Cost Calculation Options in response to Commission Staff’s email dated November 19, 2021. As described more fully below, for purposes of determining Oregon Universal Service Fund (“OUSF”) distributions to eligible companies, OCTA urges the Commission to utilize the CostQuest model to determine the cost of providing basic telecommunications service at the census block level for all incumbent local exchange carrier (“ILEC”) territories in Oregon.

INTRODUCTION

At the November 17, 2021 workshop, the incumbent local exchange companies (“ILECs”) argued for using an embedded cost methodology for estimating the cost of providing basic telecommunications service used in the calculation of Oregon universal service fund (“OUSF”) distributions. Consistent with their respective Straw Proposals, both Commission Staff and OCTA continued to advocate using the forward-looking cost estimates of providing basic telecommunications service generated by the CostQuest model for all ILECs, including both the price cap ILECs and rural ILECs (“RLECs”). The parties also discussed the potential for using a bifurcated approach in which the CostQuest model would be used for estimating the cost of providing basic telecommunications service for the large ILECs’ territories and an embedded cost methodology would be used for estimating the cost of providing basic telecommunications service for the RLECs’ territories. On November 19, 2021, Commission Staff requested the parties provide comments regarding the merits of each of these three options.

OCTA continues to support the use of the CostQuest model for all ILECs. The use of a forward-looking cost model based on the costs that would be incurred by an efficient provider of basic telecommunications service is critical for satisfying the statutory requirement that the OUSF be competitively neutral and non-discriminatory.¹ From the very inception of the OUSF in 2000, the Commission has recognized that the OUSF should be based on forward-looking cost model estimates and not on individual company costs. The Commission summarized its holding in this regard, stating:

We are convinced that a forward-looking economic model provides the best forecast of the costs a reasonably efficient telephone carrier would incur to provide basic service. We agree with the criteria established by the FCC

¹ ORS 759.425(1)(a).

for selecting a cost proxy model and adopt them for the OUS program. The costs estimated should be those of an efficient generic telephone carrier, rather than the costs of individual companies. If support amounts were distributed to individual companies based on their specific costs, an inefficient company would receive more universal service support than a more efficient company for serving a similarly situated group of customers. It therefore would not be competitively neutral nor would it encourage efficiency. By adopting a forward-looking economic model, we give carriers incentives to improve operations and increase efficiencies. We have stated our belief in forward-looking cost principles in various orders over many years. *See*, for example, Orders 90-920 and 93-1118. We also encourage carriers to act efficiently by calculating costs on the basis of the costs an efficient carrier would incur, rather than on the costs a particular carrier has incurred in the past. On a practical level, using company-specific data to determine costs would require periodic review of the costs of each company participating in the OUS Program, an obviously time-consuming requirement.²

When the Commission subsequently extended the OUSF to include the RLECs, it reiterated its preference for using forward-looking cost models, but allowed for the use of an embedded cost methodology for an interim period.³ This was done because, at the time, the Federal Communications Commission (“FCC”) was still in the process of developing a forward-looking cost model for RLECs and had allowed RLECs to continue the use of embedded costs for an interim five-year period while it continued to work on a forward-looking cost methodology for rural carriers.⁴ The Commission made clear its intent to use this embedded cost methodology for RLECs only until such time as the FCC developed a forward-looking cost model applicable to RLECs, stating:

The time is not ripe to use an econometric model to determine the costs of carriers serving in rural areas. The enormous volume of forward-looking costs for rural carriers is not now available in usable form. The FCC is investigating how the costs of carriers serving rural areas should be determined. In the meantime, it

² *In the Matter of the Investigation of Universal Service in the State of Oregon*, Order No. 00-312 at 6 (OPUC Docket No. UM 731, Phase IV, June 16, 2000).

³ *See, In the Matter of the Investigation into Expansion of the Oregon Universal Service Fund to Include the Service areas of Rural Telecommunications Carriers*, Order No. 03-082 at 1 and 6 (OPUC Docket No. UM 1017, February 3, 2003).

⁴ *Id.* at 3.

uses embedded costs. We elect to do likewise. We plan to investigate this issue again in the future.⁵

That was nearly 19 years ago. In the interim, the FCC developed forward-looking cost model estimates for use in the areas served by RLECs⁶ and has been using it to distribute federal USF support for numerous RLECs, including Oregon RLECs. The time is now ripe for the Commission to base OUSF distributions in RLEC areas on forward-looking cost model estimates. The CostQuest model is the FCC-approved forward-looking cost model for purposes of estimating costs of providing service in the areas served by RLECs. The Commission should, therefore, adopt use of this model for determining the cost of providing basic telecommunications service in areas served by both non-rural ILECs and RLECs.

OCTA POSITION

OCTA urges the Commission to adopt rules that require the use of the CostQuest model to identify the cost of providing basic telecommunications service on a census block basis, and to use those costs for determining OUSF support for eligible carriers, including all eligible ILECs, large and small, rural and non-rural. OUSF distributions for eligible competitive telecommunications service providers (“CLECs”) should also be based on the census block costs derived from the CostQuest model (*i.e.*, the OUSF per line distribution amount available for an ILEC in a particular census block would be available for eligible CLEC lines in that census block).

The Commission could include in the rules a process for small independent RLECs (*i.e.*, those RLECs not affiliated with a price cap ILEC) to challenge the CostQuest basic

⁵ *Id.* at 6 (emphasis added).

⁶ *See, Connect America Fund, ETC Annual Reports and Certifications, Developing a Unified Compensation Regime*, WC Docket No. 10-90, et al., Report and Order, Order on Reconsideration, and Further Notice of Proposed Rulemaking, 31 FCC Rcd 3087 (2016) (adopting the A-CAM model, also known as the CostQuest model).

telecommunications service cost estimates where the RLEC would bear the burden of showing that the cost estimates are grossly inaccurate and that the resulting distributions would create an egregious burden on the RLEC. Any adjustments to OUSF distributions that result from such challenges would, in the aggregate, be capped at the statutory maximum of \$28 million dollars for the entire OUSF.⁷

While OCTA's preferred approach is to use the CostQuest model to identify the cost of basic telecommunications service for all ILECs, OCTA is willing to consider rules that would allow independent RLECs that have opted not to use A-CAM for federal support⁸ the option to use an updated UM 1017 cost study approach to determine the cost of basic telecommunications service in their study areas, provided that, and only if, the UM 1017 cost study approach is modified, at a minimum, to do the following:

- It must include a method for allocating the costs of shared facilities (i.e., those that provide both Basic Telecommunications Service and broadband service) so that only the costs of Basic Telecommunications Service are included for purposes of determining OUSF support amounts;
- It must update the rate of return to be no greater than the rate of return that the FCC utilizes for federal universal service fund ("FUSF") purposes (e.g., 9.75% for 2022 payment year),⁹ to be updated on an annual basis to track the FUSF rate of return;

⁷ See, OSR 759.425(1)(b).

⁸ An RLEC should not be permitted to pick and choose between two different methods for calculating federal and intra-state support. In addition, the calculation of OUSF support requires reducing the basic telecommunications service cost estimates by the amount of federal support a carrier receives. See ORS 759.425(3)(a). Allowing an RLEC to use A-CAM for federal support and an embedded cost methodology for OUSF could unduly complicate this aspect of the calculation.

⁹ Source: NECA Oct 2021 USF cost filing, Appendix B, p. 4, which is pdf p. 37 at https://transition.fcc.gov/Bureaus/Common_Carrier/Reports/FCC-State_Link/Monitor/usf21af.pdf.

- It must incorporate the Expense Caps implemented for FUSF (e.g., Corporate Operations Expense Limitation, Opex Limitation, etc.), and adjustments for significant one-time expenses that are not indicative of future years for which cost is estimated (e.g., accounting changes, merger-related costs, bankruptcy, etc.).

It should be noted that this approach remains problematic in that it will “require periodic review of the costs of each company participating in the OUS Program, an obviously time-consuming requirement.”¹⁰ In addition, RLEC embedded costs are maintained on a study area basis, not on a census block basis. If the Commission determines, as OCTA has repeatedly advocated, that OUSF support should not be provided in census blocks where there is unsubsidized competition, the updated UM 1017 approach will complicate application of such a policy. The UM 1017 approach should *NOT* be used for the Price Cap ILEC territories, including the territories of their subsidiaries/affiliates (*i.e.*, United, CenturyTel, Citizens). As explained above, from the very inception of the OUSF, the Commission has favored the use of a forward-looking cost model for estimating the costs of providing basic telecommunications service in the Price Cap ILECs’ territories. The Commission should not diverge from that practice now.

CONCLUSION

For the foregoing reasons, OCTA believes the Commission’s rules should adopt the use of the CostQuest model for calculating basic telecommunications service cost estimates for all ILECs, with a process for an independent RLEC to challenge the results where it can show the cost estimates are grossly inaccurate and that the resulting distributions would create an egregious burden on the RLEC. As an alternative, non-preferred approach, OCTA would be willing to work

¹⁰ Order No. 00-312 at 6.

with the parties to develop a mechanism for independent RLECs that do not use A-CAM for federal support to use an updated embedded cost methodology that meets the parameters set forth in these comments.

Respectfully submitted this 13th day of December 2021.

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