

BEFORE THE PUBLIC UTILITY COMMISSION

OF OREGON

UM 2040

In the Matter of

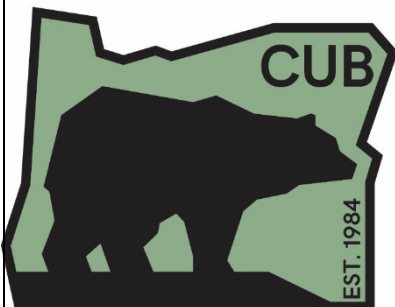
PUBLIC UTILITY COMMISSION OF
OREGON

Investigation of the Oregon Universal
Fund

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COMMENTS OF THE
OREGON CITIZENS' UTILITY BOARD

October 26, 2020



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Docket No. UM 2040 Questions for Stakeholders

Oregon Citizens' Utility Board ("CUB") appreciates the opportunity to submit the following comments in response to questions posed by Oregon Public Utility Commission's ("Commission") Staff within the context of their *Staff Timeline and Stakeholder Questions* document that was shared with the Docket No. UM 2040 service list on September 18, 2020.

As a starting point for the following comments, CUB agrees with the threshold scheduling concern raised by the Oregon Telecommunications Association ("OTA") in their comments submitted on October 26, 2020 responding to the questions posed by Commission Staff regarding Docket No. UM 2040. CUB, in general, agrees with OTA's proposed scheduling changes.

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.

First, the definition of basic telephony is an important variable in determining the cost for delivering service. CUB's understanding is that, currently, smaller (non-Price Plan) telecommunications utilities—often referred to as Rural Local Exchange Carriers ("RLECs")—report regularly to the Commission regarding the cost associated with their providing regulated telecommunications services, including basic telephony. The Commission, however, does not

require all other Eligible Telecommunications Companies (“ETCs”) to report regularly on the cost associated with the provision of basic telephony. Docket No. UM 1481 established a process whereby non-RLEC ETCs can approximate their support on an exchange-by-exchange basis. This methodology could serve as the basis for a discussion regarding how the Commission may determine the cost of providing basic telephony from non-RLEC ETCs.

2. What federal support amounts should be deducted?

At this time, CUB is hesitant to answer this question beyond what is outlined in statute. ORS 759.425(4)(a) is clear that Oregon Universal Service Fund (“OUSF”) support to ETCs shall be equal to the difference between the cost of providing basic telephony and the benchmark, less explicit compensation received from federal sources specifically used to recover local loop costs and a federal universal service program. Determining explicit support from these federal programs is the statutory basis for determining deductions from the difference between the cost of providing basic telephony and the established benchmark.

3. How should the benchmark be defined and calculated?

CUB supports a review of the methodology used to establish the existing benchmark. Utilizing the existing benchmark as the “benchmark” for a timely discussion around the definition and calculation of a potential new benchmark is appropriate, in particular, due to recent instruction from the Oregon Legislature, via SB 1603, regarding the overall size and purpose of the OUSF.

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

At this time, while CUB does not offer any specific concerns with the current methodology used to determine high cost areas, we would, however, support a review of the existing methodology. At a high level, proximity to relevant infrastructure is an important variable to consider.

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

CUB does not fully understand this question in that OUSF support is currently “linked” to the high cost areas.

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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?

Is the question how the Commission should define competition from unregulated or unsubsidized services with basic telephony?

Assuming the answer to the above question is yes, then in terms of what information should be considered: CUB can identify no other way than for the state of Oregon, potentially led by the Commission, to conduct a focused study. While the Federal Communications Commission can and does provide some helpful information, a state-specific analysis would represent a prudent approach to developing an accurate definition of competition from unregulated/unsubsidized services with basic telephony. The Commission's recent Carrier of Last Resort ("COLR") report to the Oregon Legislature in many ways articulates this dynamic.

Once again, the definition of basic telephony is an important variable in answering this question.

In terms of how often high cost areas should be evaluated: CUB does not feel prepared to offer a specific recommendation at this time, outside of our suggestion that it would be reasonable for the Commission to evaluate high cost areas on a basis consistent with the agency's understanding and evaluation of competition and the provision of high-quality, affordable services for customers at the least cost.

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?

These are two different questions. The first question is whether a high cost area can be classified as ineligible for elimination from consideration for eligibility (presumably for OUSF support) because of competition from unsubsidized services. The second question relates to "specific federal support."

The answer to the first question is, potentially, yes. But to truly answer this question, the Commission must first have a clearer understanding of competition from unsubsidized services and their potential impact on subsidized services.

The answer to the second question is more difficult. To answer that question, CUB would first need to better understand the reference to “specific federal support.” For example, what would the specific federal support cover, and what would be the duration of the specific support?

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?

Basic telephone service is loosely defined in statute through ORS 759.400, and then further defined in rule via OAR 860-032-0190. In short: Yes, basic telephony—at least as defined in rule—does merit revision, but only after careful consideration and review. CUB is not prepared at this time to offer specific guidance regarding a revised definition of basic telephony as it is currently defined in administrative rule.

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

Should the amount of calculated support exceed the amount of available funds, the funds should be allocated to ETCs on a proportionate or prorated basis.

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

Customers of ETCs in high cost areas should receive the greatest benefit at the least cost to maximize the efficiency and efficacy of available funds.

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

The Commission can and should encourage broadband service availability by simply fulfilling the clear instruction laid out in the current statute.

As recently amended by SB 1603, ORS 759.425 instructs the Commission to implement the OUSF for the purpose of not only ensuring basic telephony, but also the transfer annually of up to \$5 million to the Broadband Fund. Even prior to SB 1603, ORS 759.425 authorized the Commission’s oversight of the OUSF to encourage broadband service availability and the provision of support to ETCs that provide both basic telephony and broadband service.

Separate from the already clear statutory guidance, CUB supports the Commission’s consideration of opening an investigation to further contemplate the agency’s role encouraging broadband service availability.

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

Only ETCs should receive OUSF support. Only companies contributing to the OUSF should receive OUSF support. The Commission should obligate all ETCs that receive OUSF support to provide and maintain a high-quality network capable of providing relevant and affordable services to all customers in the area(s) receiving OUSF support.

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

The eligibility criteria for receiving OUSF support should be inextricably “tied” to the provision of high-quality, relevant, and affordable service to customers.

Signed this 26th day of October, 2020



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