BEFORE THE PUBLIC UTILITY COMMISSION

OF OREGON

DOCKET NOS. AR 649/UM 2040

In the Matter of PUBLIC UTILITY COMMISSION OF OREGON, Investigation of the Oregon Universal Service Fund.	OCTA COMMENTS REGARDING STAFF DRAFT RULES
In the Matter of PUBLIC UTILITY COMMISSION OF OREGON, Rulemaking to adopt rules pursuant to ORS 759.425.	

OCTA COMMENTS REGARDING STAFF DRAFT RULES

Pursuant to the Workshop Notice issued March 14, 2022, the Oregon Cable Telecommunications Association ("OCTA") hereby submits its Comments Regarding Staff Draft Rules. OCTA appreciates the work that Staff has undertaken to develop draft rules for discussion at the upcoming workshop on March 31, 2022. OCTA looks forward to participating in the workshop and exploring the concepts set forth in the Staff Draft Rules in greater detail.

In general, OCTA agrees with the framework reflected in the Staff Draft Rules, especially the rules requiring that the CostQuest model be used to determine the cost of providing basic

service and for determining the total required support amounts for all support areas, and to use the model to conduct annual updates. However, there are a number of items in the draft rules that require clarification, as more fully discussed below.

ITEMS REQUIRING FURTHER CLARIFICATION

- **Use of the Model to Set Benchmarks**

  The Staff Draft Rules suggests the model will be used to set the benchmark required by ORS 759.425(4). It is unclear exactly how the model will be used to set the benchmark. OCTA's understanding is that the CostQuest Model does not set a benchmark; setting benchmarks is a policy decision made by regulators (in this case, by the Commission) depending on a specific regulatory context. In addition, the language in the Staff Draft Rules suggests that there will be only a single benchmark. As OCTA has previously stated, consistent with the approach taken by the FCC when determining reasonable comparability ranges, the Commission should set the benchmark at two standard deviations above the weighted average cost of model-generated census block cost estimates for the non-rural ILECs and two standard deviations above weighted average cost of model generated census block cost estimates for the RLECs. In addition, in census blocks subject to unsubsidized competition, the benchmark should be set equal to cost to effectuate zero OR USF subsidies for those census blocks. Similarly, in census blocks that have received federal support (*e.g.*, RDOF), the benchmark should be set at cost. OCTA, therefore, recommends that the Staff Draft Rules be revised to allow for multiple benchmarks.

- **Use of the Model to Subtract Federal Support**

  As drafted, the Staff Draft Rules suggest that the model will be used to determine federal support that must be subtracted to determine OUSF support. OCTA is not familiar enough with the model to understand how this would be achieved. How can the model be used to remove all relevant federal support (*e.g.*, EUCL, HCL, CAF II, RDOF, ARPA, IIJA)? Identification of specific federal support mechanisms that would need to be subtracted will also depend on the manner in which the model is set to allocate the cost of shared facilities (see below).

- **Splitting the Fund into Two Pools**

  OCTA does not object to splitting the fund into two pools in order to allow for differing methodologies to be used for determining: (1) allocations between the Large ILECs (*i.e.*, the model), and (2) for allocations between the rural ILECs (RLECs). However, the Staff Draft Rules do not make explicit how the total support amount determined by the model is then split between the two pools. Clarification is needed in this regard.

ITEMS REQUIRING FURTHER DEVELOPMENT

While the Staff Draft Rules are a good starting point for further discussion and development, a number of significant issues remain to be addressed, including:

- **Determining the Allocation Factor for Shared Facilities**

  In order to isolate the cost of providing basic service using the model, not only must the costs associated with providing non-basic services be excluded (a function OCTA understands the model is capable of), but an allocation factor must also be developed to

apply to costs associated with facilities utilized to provide both basic telephone service and other services (*e.g.*, broadband). As OCTA has previously advocated in this proceeding, and in prior dockets (*see* OCTA testimony in UM 1481 Phase III), the Commission should allocate such costs based upon the bandwidth needed to provide basic telephone service.

- **Elimination of OUSF Support to Areas Served by Unsubsidized Competitors**

  As OCTA has long advocated, both in this proceeding and prior dockets (*see* OCTA testimony in UM 1481 Phase II), OUSF support should not be available in any census blocks with at least one unsubsidized wireline or wireless provider of voice services similar in functionality to basic telephone service. This issue was scheduled to be discussed at a previous workshop in UM 2040, that was postponed pending the outcome of OUSF reform legislation then pending before the 2020 Legislature. That workshop has yet to be convened and the issue is not addressed in the Staff Draft Rules. OCTA urges Staff to add this issue to the agenda for the March 31st workshop.

- **Access to the CostQuest Model**

  In order to more fully develop OUSF rules, it is critical that the parties have the opportunity to conduct runs of the CostQuest model with various inputs and assumptions. It is OCTA's understanding that the Commission has been negotiating with CostQuest for use of the model. OCTA urges the Staff to add to the March 31st workshop agenda a discussion of the timing for access to model.

CONCLUSION

OCTA again commends the Staff on its efforts to date to develop the Staff Draft Rules.

OCTA looks forward to a robust discussion at the upcoming workshop.

Respectfully submitted this 28th day of March 2022.

By: _____

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