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VIA E-MAIL

Records Center
Oregon Public Utility Commission
PO Box 1088
Salem OR 97308-1088

Re: UM 2040 – Initial Comments of the Oregon Telecommunications Association per
Scheduling Memorandum of December 27, 2022

To Whom it May Concern:

The Oregon Telecommunications Association (OTA) is submitting these Initial Comments concerning the disbursement methodology for the Oregon Universal Service Fund (OUSF) for 2024.

While OTA does not agree with some of the assumptions underlying the distribution methodology used in 2023, it produced a result that OTA's members were able to accept. OTA continues to believe that certain adjustments could improve the distribution methodology that was used for 2023 and encourages the Commission to implement OTA's recommendations below.

1. Comments on the Allocation of the Network.

One of the premises used by Commission Staff in the 2023 distribution is to allocate the total network cost between the provision of broadband service and the provision of basic telephone service. That allocation is on a 70/30 basis with 70 percent being allocated to broadband service. OTA disagrees with an allocation of network costs.

The entire network is needed to provide basic telephone service. It is not possible to deliver basic telephone service over thirty percent of the network. That logically just does not make sense. Even CostQuest recognized this as stated in their email reply to Commission Staff responding to a Commission Staff inquiry: “[t]he presence of the entire broadband network is a necessary condition to support voice.” The network, the entire network, is needed to provide basic telephone service.

Based on the statutory language, the allocation of the network is not an allowed deduction in calculating the amount of support. ORS 759.425(4)(a) states, in pertinent part, as follows: “The universal service fund shall provide explicit support to the 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.” This language does not contemplate and, hence, the Legislature did not allow, a deduction for any proposed allocation of costs of providing broadband as a way of reducing the size of the fund.

In addition, ORS 759.425 specifically allows the Commission to include support for broadband as part of the OUSF program. ORS 759.425(1)(c)(B) states as follows: “In addition to using the universal service fund to ensure basic telephone service, [the Commission may] use the universal service fund to encourage broadband service availability and to provide support to telecommunications carriers that provide both basic telephone service and broadband service.” A network allocation is not needed nor is it warranted.

In further support of the concept that the public telecommunications network is a unified network that serves both telecommunications and broadband objectives, the Legislature adopted the following policy on broadband services in ORS 759.016:

- (1) That it is the goal of this state to promote access to broadband services for all Oregonians in order to improve the economy in Oregon, improve the quality of life in Oregon communities and reduce the economic gap between Oregon communities that have access to broadband digital applications and services and those that do not, for both present and future generations; and
- (2) That the goal set forth in subsection (1) of this section may be achieved by:
 - (a) Expanding broadband and other telecommunications services;
 - (b) Creating incentives to establish and expand broadband and other telecommunications services;
 - (c) Undertaking telecommunications planning at the local, regional and state levels that includes participants from both the public and the private sectors;
 - (d) Removing barriers to the full deployment of broadband digital applications and services and providing incentives for the removal of those barriers; and
 - (e) Removing barriers to public-private partnerships in areas where the private sector cannot justify investments.

When dovetailed with the Legislature’s policy on universal telecommunications service, the point that there is one network is underscored. In ORS 759.015, the Legislature declared

“that it is the goal of the State of Oregon to secure and maintain high-quality universal telecommunications service at just and reasonable rates for all classes of customers and to encourage innovation within the industry by a balanced program of regulation and competition. The Public Utility Commission shall administer the statutes with respect to telecommunications rates and services in accordance with this policy.”

This supports the concept that there should not be an allocation of the network between the broadband services and basic local telecommunication service. The network should be viewed as one facility that is used to advance both Oregon’s public policies on broadband service and basic telecommunication service.

2. Comments on Support Offsets.

For 2023 distributions, Commission Staff deducted from the cost of providing service the High Cost Loop support (HCL), the Connect America Fund Broadband Loop Support (CAF BLS), and the Alternative Connect America Cost Model (A-CAM), both versions one and two. OTA’s position is that if there is going to be an allocation of the network costs between broadband services and basic voice services, the support mechanisms that are aimed primarily at broadband service should not be included as deductions. These are the CAF BLS and the two A-CAM versions. The way Staff did the calculations means that essentially thirty percent of these broadband support mechanisms were used as a deduction in figuring out the OUSF support for basic telephone service.

3. Comments on the Staff benchmark.

For 2023 distributions, the Commission Staff used a benchmark predicated on the cost model’s average monthly cost per unit of \$94.74. OTA disagrees with using a cost benchmark. First of all, using the total cost is inconsistent with the concept of allocating the network between broadband service and basic telephone service. The cost of \$94.74 is the cost of providing the entire network, not just the thirty percent that Staff allocates to basic telephone service.

Secondly, and more importantly, using a cost benchmark appears to be inconsistent with the stated purpose of the OUSF. As stated in ORS 759.425(2)(a), the Commission is to use the state universal service fund to ensure “basic telephone service is available at a reasonable and affordable rate.” This language strongly points in the direction that what is contemplated is a revenue benchmark. In fact, the Commission has used a \$21.00 revenue benchmark for the last fifteen years. This use of a cost benchmark also appears to be inconsistent with the Legislature’s declaration of policy in ORS 759.015:

The Legislative Assembly finds and declares that it is the goal of the State of Oregon to secure and maintain high-quality universal telecommunications service

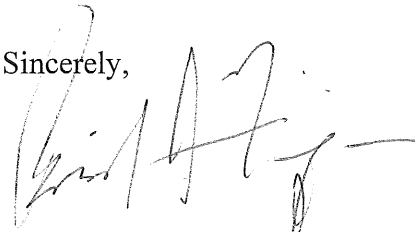
at just and reasonable rates for all classes of customers and to encourage innovation within the industry by a balanced program of regulation and competition. The Public Utility Commission shall administer the statutes with respect to telecommunications rates and services in accordance with this policy.

The emphasis is on rates in this statement. That emphasis points to a revenue benchmark.¹

Conclusion.

The distribution method used for 2023 achieved rough justice. With the modifications suggested above, it will be even better for 2024.

Sincerely,

A handwritten signature in black ink, appearing to read "Richard A. Finnigan", with a horizontal line extending to the right.

RICHARD A. FINNIGAN

RAF/cs

cc: Client (via e-mail)
Service List

¹ OTA recognizes that the recently adopted OAR 860-100-0300 can be read to suggest the use of a cost benchmark. However, it is not a requirement under the rule. The rule states that the cost model is to “assist” in deriving a benchmark. The benchmark does not have to be determined by the cost model.