

**BEFORE THE PUBLIC UTILITY COMMISSION
OF OREGON**

UM 1481

In the Matter of

PUBLIC UTILITY COMMISSION OF
OREGON

Staff investigation of the Oregon Universal
Service Fund.

ORDER

DISPOSITION: RECONSIDERATION OF ORDER 10-496 GRANTED;
CONSIDERATION OF SUBSTANTIVE ISSUES TO BE
ADDRESSED IN NEXT PHASE OF PROCEEDING

I. PROCEDURAL HISTORY

On April 26, 2010, the Public Utility Commission of Oregon (Commission) opened this docket to investigate the Oregon Universal Service Fund (OUSF). After several workshops and prehearing conferences, docket parties submitted two rounds of comments addressing the current status of the fund and recommendations for the fund's revision.

In Order No 10-496, entered December 28, 2010, we deferred final action on any revision to the OUSF until after the upcoming 2011 legislative session, but adopted several procedures to respond to party concerns about perceived accountability with regard to the current fund. Among those procedures was the requirement that "the non-rural companies must, beginning March 1, 2011, submit semiannual reports to show that the funds were used in areas with demonstrably higher installation and maintenance costs * * * as compared to the remaining wire centers * * *."

On February 8, 2011, the Administrative Law Judge adopted a revised schedule, including the designation of two additional phases to the proceeding, Phase II and Phase III.

On February 22, 2011, Qwest Corporation (Qwest) filed a Motion for Reconsideration and Stay of Order No. 10-496, which was joined in by Frontier Communications Northwest Inc. (Frontier) (Joint Motion). Qwest and Frontier seek reconsideration and stay of the requirement "that non-rural companies may only use

OUSF distributions for investment in infrastructure or maintenance, such as new investment or investment associated with repairs and maintenance” as well as the filing of the semiannual reports described above. On March 9, 2011, CenturyLink, Inc., and Oregon Telecommunications Association (OTA) filed comments supporting the request for reconsideration; the Citizens’ Utility Board of Oregon (CUB), the Oregon Cable Telecommunications Association (OCTA), and the Oregon Telecommunications Ratepayers Association for Cost-based and Equitable Rates (TRACER) filed comments opposing the request. By Order No. 11-070, entered February 28, 2011, the Commission stayed the deadline for filing semiannual reports pending resolution of the Joint Motion, but left the remainder of Order 10-496 in effect.

II. DISCUSSION

Parties’ Comments

The Joint Motion principally objects to Order 10-496 because, in the view of Qwest and Frontier, the proceeding “was not noticed as a docket in which changes to the purpose of the [OUSF] would be considered, and there was no evidentiary basis for any such changes to the OUSF,” and that the Commission acted without an evidentiary record or sufficient due process.¹ They contend that the Commission has specifically stated previously that the purpose of the OUSF is the transfer of implicit support to explicit support, and companies were required to file revenue-neutral cost studies to participate in the fund. The notion of an infrastructure improvement fund was explicitly rejected in prior (pre-10-496) orders.² Qwest and Frontier assert Order No. 10-496 set newly-articulated additional requirements on non-rural companies (namely Frontier and Qwest), and did so without any testimony or discovery, but merely a series of general, unverified comments filed by numerous parties on a wide variety of issues.³ OTA and CenturyLink support the Joint Motion and adopt its arguments.

OCTA, CUB, and TRACER oppose the Joint Motion. OCTA argues that the Commission did not alter the OUSF’s purpose or amend its prior order and that no notice of amendment was required before the Commission could address OUSF accountability. CUB contends that more transparency is needed and that the non-rural companies will not be harmed by leaving the order in place. TRACER asserts that the OUSF was intended to replace implicit subsidies to rural areas from business revenues and it is entirely proper for non-rural companies to be required to demonstrate that the revenue neutral filings had their proper effect.

¹ Joint Motion at 1.

² *Id.* at 1-2.

³ *Id.* at 5-6.

III. OPINION

As noted above, we have already stayed the reporting requirements imposed by Order No. 10-496. In addition, we have scheduled a Public Meeting in the form of a workshop for April 25, 2011, to give all participants the opportunity to discuss proposed changes to the OUSF and the procedures necessary to implement any such changes. In light of the continuing work of this proceeding, we conclude that the motion for reconsideration of Order No. 10-496 should be granted, but reserve consideration of the substantive issues raised in the request. We will address these matters in the next phase of this docket.

IV. ORDER

IT IS ORDERED that Qwest Corporation's Motion for Reconsideration and Stay of Order No. 10-496 is granted.

Made, entered, and effective APR 25 2011

John Savage

John Savage
Commissioner

Susan K. Ackerman

Susan K. Ackerman
Commissioner



A party may request rehearing or reconsideration of this order under ORS 756.561. A request for rehearing or reconsideration must be filed with the Commission within 60 days of the date of service of this order. The request must comply with the requirements in OAR 860-001-0720. A copy of the request must also be served on each party to the proceedings as provided in OAR 860-001-0180(2). A party may appeal this order by filing a petition for review with the Court of Appeals in compliance with ORS 183.480 through 183.484.