

ORDER NO.

12 020

ENTERED

JAN 26 2012

**BEFORE THE PUBLIC UTILITY COMMISSION  
OF OREGON**

UM 731  
Phase III

In the Matter of

The Investigation of Universal Service in the  
State of Oregon

ORDER

DISPOSITION: MOTION TO AMEND ORDER NO. 99-197 GRANTED.

**I. INTRODUCTION**

On December 19, 2011, Staff of the Public Utility Commission of Oregon (Staff) filed a motion to amend Order No. 99-197. Staff requested the order “be amended to allow for either staff or an independent auditor to review, and if necessary, audit the Administrator” of the Oregon Universal Service Fund.<sup>1</sup>

**II. BACKGROUND**

The purpose of UM 731 is to develop and implement “the Oregon Universal Service (OUS) program that complements the federal universal service program.”<sup>2</sup> Phase III of UM 731 addresses the administration of the OUS, and the Public Utility Commission of Oregon (Commission) adopted Order No. 99-197 to resolve disputed issues in Phase III.<sup>3</sup>

One of the disputed issues, Issue 18, dealt with how the OUS program and its administration should be audited and by whom.<sup>4</sup> As relevant here, the Commission concluded that:

We agree that the Administrator should be audited annually to determine whether it is performing according to the standards we have established.

<sup>1</sup> *Staff's Motion to Amend Commission Order No. 99-197 (Issued in UM 731, Phase III)*, Docket UM 731 (Phase III) at 1 (Dec 19, 2011).

<sup>2</sup> *In the Matter of the Investigation of Universal Service in the State of Oregon*, Docket No. UM 731 (Phase III), Order No. 99-197 at 1 (Mar 11, 1999).

<sup>3</sup> *Id.* at 1-2.

<sup>4</sup> *Id.* at 15.

We direct that an independent auditor be employed for that audit, to be paid from OUS funds.<sup>5</sup>

Staff seeks changes to give it the opportunity to directly evaluate the Administrator's performance. Staff states that it is qualified to not only review the Administrator's performance, but also, in most cases, to perform any audit the Board determines is needed. Thus, Staff contends that there is no need to retain the services of an independent auditor. Staff concludes that, under this approach, the Commission could use "existing Commission resources to perform the required review and audit" of the Administrator and "avoid the expense of retaining an outside auditor."<sup>6</sup>

Staff submitted the following language to amend the resolution:

We agree that there should be an annual review of the Administrator's compliance with the scope of work contained in the Administrator's contract. We direct **Commission staff to conduct this compliance review. In addition, if the Oregon Universal Service Fund Board (Board) determines that an audit is needed, the Board is authorized to retain an independent auditor to assist with, or conduct in full, that specific audit. If an independent auditor is retained, such auditor should be paid from OUS funds.**<sup>7</sup>

### III. DISCUSSION

ORS 756.568 grants the Commission authority to "rescind, suspend or amend any order made by the commission" after giving telecommunication utilities notice and the opportunity to be heard. OAR 860-001-0420(5) provides that parties have 15 days from the date of service to response to a substantive motion. No party filed a response to the motion, and the time for doing so has expired.

We adopt Staff's request to amend Order No. 99-197 to provide Staff the authority to review the Administrator's performance of its OUS Fund duties and, if necessary, conduct an audit. This proposal will help preserve OUS funds by allowing Staff to play a greater role in evaluating the fund and how it is being administered. We modify, however, Staff's proposed new language to clarify the respective roles of, and process used by, Staff and the OUSF Board in the evaluation of the fund and its Administrator. We amend Staff's language as follows:

We agree that there should be an annual review of the Administrator's compliance with the scope of work contained in the Administrator's

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<sup>5</sup> *Id.* at 15-16.

<sup>6</sup> *Id.* at 1.

<sup>7</sup> *Staff's Motion to Amend Commission Order No. 99-197 (Issued in UM 731, Phase III)*, Docket UM 731 (Phase III) at 2 (Dec 19, 2011).

contract. We direct Commission Staff to conduct this compliance review, and submit a report of its findings to the Oregon Universal Service Fund Board (Board). The report should provide Staff's recommendation as to whether an audit of the Administrator or fund should be conducted and, if so, whether Staff or an independent auditor should perform the audit. If Staff recommends the use of an independent auditor, Staff should also provide an estimate of the costs of an independent auditor. If the Board determines that an audit is needed, the Board may direct Staff to perform the audit, or retain an independent auditor to assist Staff with, or conduct in full, that specific audit. If an independent auditor is retained, such auditor should be paid from OUS funds.

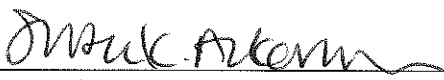
Thus, we grant Staff's motion and adopt Staff's proposed language to revise the resolution of Item 18 in Order No. 99-197.


**ORDER**

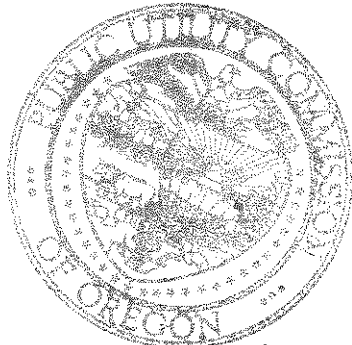
IT IS ORDERED that Staff's motion to amend Order No. 99-197 is hereby granted, and Staff's proposed language to amend the resolution of Item 18 is hereby adopted.

Made, entered, and effective JAN 26 2012

  
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**John Savage**  
Commissioner

  
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**Susan K. Ackerman**  
Commissioner

  
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**Stephen M. Bloom**  
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.