

ENTERED: JAN 12 2015

**BEFORE THE PUBLIC UTILITY COMMISSION
OF OREGON**

UM 1481
Phase III

In the Matter of

PUBLIC UTILITY COMMISSION OF
OREGON

Investigation of the Oregon Universal
Service Fund.

ORDER

**DISPOSITION: MOTION TO ADOPT STIPULATION DENIED; FURTHER
PROCEEDINGS TO BE SCHEDULED**

In this order, we deny the motion to adopt a stipulation entered into between the joint parties to this docket. We direct the administrative law judge to establish a new procedural schedule to address the goals and issues outlined herein and in prior Commission orders.

I. BACKGROUND

In Phase II of this docket, we adopted a stipulation that decreased Oregon Universal Service Fund (OUSF) support over three years to CenturyLink and Frontier (the non-rural companies), and decreased OUSF support for one year to the small rural companies. We also directed the parties to address three issues for Phase III:¹

- a. Accountability for Non-Rural Companies: Identify methods for accurately estimating how OUSF funds are directed to operating expenses in claimed high-cost areas.
- b. Develop a method (other than revenues) to allocate incumbent local exchange carrier (ILEC) network costs between basic telephone and other services, including a review of the cost models used to calculate OUSF support; and
- c. Identify areas of unsubsidized competition and determine if OUSF support should continue to be provided there.

¹ Order No. 13-162 at 4.

II. THE STIPULATION

Following the filing of opening testimony, the joint parties reached settlement of all issues. On September 22, 2014, the joint parties filed a combined stipulation and joint explanatory brief and motion to adopt.²

In the stipulation, the joint parties propose further reductions to the OUSF by continuing the Phase II declines that end 2016 and extending further phase downs through 2021. For the non-rural companies, the Phase II and Phase III declines would be from \$17.5 million in 2016 to \$12.7 million in 2021. For the rural companies, the Phase II and Phase III declines would be from \$14.4 million in 2016 to \$12.23 million in 2021. After 2021, there are no further reductions except as required to comply with other terms of the stipulation.³

The joint parties make numerous other stipulated recommendations. These include increasing the OUSF surcharge cap from 8.5 to 9.5 percent, cancelling any triennial review to calculate per-line support that may have been required in previous orders, and continuing Staff review of the companies' quarterly OUSF filings to develop recommendations on how to reduce the surcharge rate without reducing the agreed-upon amounts in the stipulation. They also ask that we exercise our discretion and modify the purpose of the OUSF to focus on the "investment, construction, operation, maintenance, and repair to ensure that basic telephone service is available at reasonable and affordable rates⁴."

The joint parties do not include any stipulated terms that explicitly address the three issues we identified in Order No.13-162. Nonetheless, the joint parties summarily agree that the stipulation resolves these issues—particularly issues (b) and (c), which they concluded were "focused on controlling the size of the OUSF."⁵

III. DISCUSSION

We deny the joint motion to adopt the stipulation and joint explanatory brief and, instead, direct further proceedings be scheduled. Although a significant amount of data has been submitted that addresses the three issues we identified for Phase III, the joint parties'

² The stipulation consists of two parts. The first part, Attachment 1, was entered into by the Citizens' Utility Board of Oregon (CUB); Comcast Phone of Oregon, LLC; CenturyLink, et al; Frontier Communications Northwest Inc. (Frontier) and the Citizen's Telecommunications Company of Oregon; GVNW Consulting, Inc.; Oregon Cable Telecommunications Association; Oregon Telecommunications Association; tw telecom of oregon llc; Verizon, et al; Warm Springs Telecommunications Company (Warm Springs); and the Staff of the Public Utility Commission of Oregon (Staff). The second part, Attachment 2, was entered into by Qwest Corporation, dba CenturyLink QC; Frontier; CUB; and Staff.

³ Warm Springs gets separate treatment: \$1.5 million/year cap, beginning in 2017, with annual 3 percent reductions for five years.

⁴ Attachment 1 at 4, ¶15 to Joint Motion to Adopt Stipulation and Joint Explanatory Brief (Joint Motion) (Sept 22, 2014).

⁵ Joint Motion at 7, ¶ 13.

stipulation would prevent us from fully examining all issues relevant to our administration of the OUSF program.

ORS 759.425 establishes the OUSF to ensure the availability of basic telephone service at reasonable and affordable rates. The Commission is required to establish a benchmark rate that a telecommunications utility may charge for basic phone service, and provide support to eligible telecommunications carriers equal to the difference between that benchmark rate and the actual cost of providing basic telephone service.⁶ We must also exercise our discretion and periodically review the benchmark and adjust it as necessary to reflect: (a) changes in competition in the telecommunications industry; (b) changes in federal universal service support; and (c) other relevant factors as determined by the Commission.⁷

To fulfill these statutory obligations in a rapidly changing telecommunications environment, we must continue to reexamine threshold questions as to what constitutes the “availability of basic telephone services,” as well as what it means to make those services available at “reasonable and affordable rates.” Once we identify the level of need for OUSF support, we must then determine the proper use, distribution, and accountability of OUSF funds to ensure the program is effectively and efficiently meeting its purpose.

We asked the parties to address three issues in this phase of the proceeding to help inform our administration of the OUSF program. As noted above, these inquiries focused on accountability, the allocation of investments between basic telephone service and other services, and levels of competition. We also directed the administrative law judge (ALJ) to seek additional information through bench requests, and directed the parties to present a joint report on broadband availability.

Although the parties provided relevant testimony and information addressing these matters, they would effectively limit our ability to examine and further develop this evidence by presenting a stipulation that summarily proposes continued reductions in OUSF support and other agreements. Consequently, we are unable to determine whether the joint parties’ stipulated OUSF funding levels are appropriate to meet the need for OUSF support, or whether the joint parties’ stipulated program design will ensure the efficient and effect delivery of those funds.

Accordingly, we deny the motion to adopt the stipulation. We appreciate the parties’ efforts in reaching settlement, but conclude that we need a more thorough review of issues related to the need and administration of the OUSF program before we can determine whether the stipulation meets our statutory obligations and should be adopted. To allow this broader review, we direct the ALJ to schedule further proceedings. Those proceedings should include an initial workshop with the Commissioners to allow further clarification of our goals in this docket, and possibly the filing of testimony in reply to the previously filed opening testimony.

⁶ ORS 759.425(3)(a).

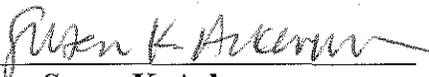
⁷ ORS 759.425(3)(b).

IV. ORDER

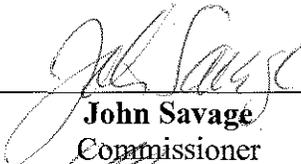
IT IS ORDERED that:

1. The Joint Motion to Adopt Stipulation and Joint Explanatory Brief, filed on September 22, 2014, is denied.
2. The Administrative Law Judge shall promptly convene a prehearing conference to establish a procedural schedule for the remainder of this phase of the proceedings.

Made, entered, and effective JAN 12 2015



Susan K. Ackerman
Chair



John Savage
Commissioner



Stephen M. Bloom
Commissioner

