

**OREGON UNIVERSAL SERVICE ADVISORY BOARD**

**To: Public Utility Commission of Oregon**  
**From: Oregon Universal Service (OUS) Advisory Board**  
**Re: OUS Revenue Funding Base**

Commission Order No. 99-197 in Docket No UM 731, Phase III created the Oregon Universal Service (OUS) Advisory Board (the Board) and in doing so, charged the Board with the duty to advise the Commission on certain matters related to the administration of the Oregon Universal Service Fund. Chief among those, the Board is to (a) interface between the administrator and telecommunications providers to resolve problems and recommend appropriate action, and (b) assist the Commission in evaluating the success of the OUS program. Accordingly, this letter is intended to advise the Commission that the revenue base upon which the fund is calculated is increasingly at risk. Specifically, an emerging revenue shortfall is anticipated as a result of the convergence of conditions including, but not limited to, overall declining telecommunications revenue; a significant shift in telecommunications traffic from wireline to wireless networks; and exemptions from contribution to the fund by entire industry sectors. From the inception, wireless carriers have been exempted from this obligation and as of July 1, 2003, the payphone sector will join this protected class.

Our responsibility with regard to program evaluation generally prompts us to first reiterate that competitive markets and subsidy mechanisms are compatible, if and only if, the subsidy is competitively neutral in all respects. That is, in order to minimize the distortion of the prices for *all other telecommunications services for all Oregonians*, the subsidy must be explicit, narrowly targeted, broadly funded, portable, and administered by a neutral third party.

Following on these design principles and recognizing further that the Oregon Universal Service Fund is a mechanism that, by definition, extracts money from one Oregonian and gives it to another, the current situation points, inescapably, to a condition of overt discrimination – against certain carriers *and* certain classes of consumers. Moreover, the pending carve-out of yet another segment of the industry from any

obligation to pay into the fund once again raises questions about consistency between federal and state law and is one important trigger for this advisory to the Commission.

Specifically, Section 254(f) of the federal act sets forth state authority with respect to universal service funding mechanisms in that:

A State may adopt regulations not inconsistent with the Commission's rules to preserve and advance universal service. ***Every telecommunications carrier that provides intrastate telecommunications services shall contribute, on an equitable and nondiscriminatory basis***, in a manner determined by the State to the preservation and advancement of universal service in that State. A State may adopt regulations to provide for additional definitions and standards to preserve and advance universal service within that State only to the extent that such regulations adopt additional specific, ***predictable, and sufficient*** mechanisms to support such definitions or standards that do not rely on or burden Federal universal service support mechanisms (emphases added).

The Commission should be advised that the declining revenue funding base, coupled with an increased surcharge portend (rightly) consumer backlash, but also burden shifting in the composition of revenue base in a manner that is at once inequitable *and* discriminatory. Significantly, on July 1, 2003, there will be two entire sectors of the telecommunications industry that do, in fact, provide intrastate telecommunications services in Oregon, but by action of the state legislature will have been exempted from making contributions to the OUS Fund. It is evident that this condition renders every other provider's contribution "discriminatory" by definition. At the same time, we cannot ignore the prospect of a funding base that is neither "predictable" nor "sufficient" as mandated by federal law.

To avoid the specter of yet another protracted litigation over the fidelity of the OUS Fund with federal law, the Board recommends that the Commission take whatever action is available within its authority to correct these inequities, to eliminate the discrimination inherent in the current funding mechanism, and in doing so ensure long term stability of the revenue funding base of the OUS Fund. It may be necessary for the Commission to advocate changes to the OUS Fund at the legislature, including the elimination of all exemptions, and the inclusion of all providers of intrastate telecommunications service defined by federal law as contributors to the OUS Fund.

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Respectfully Submitted,  
(OUS Advisory Board Member/ Representing)

Date: July 1, 2003

/s/  
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Incumbent Telephone Utilities

/s/  
Richard Ryan  
Competitive Carriers

/s/  
Karen Williams  
Incumbent Telephone Utilities

/s/  
Brian Thomas  
Competitive Carriers

/s/  
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Radio Common Carriers (wireless)

/s/  
Natalie Baker  
Competitive Carriers

/s/  
Fred Peterson  
Business Consumers

/s/  
Jeff Bissonnette  
Residential Consumers