

ITEM NO. 2

PUBLIC UTILITY COMMISSION OF OREGON  
STAFF REPORT  
PUBLIC MEETING DATE: June 16, 2009

REGULAR  X  CONSENT \_\_\_\_\_ EFFECTIVE DATE  June 17, 2009

DATE: June 5, 2009

TO: Public Utility Commission

FROM: Roger White

THROUGH: Lee Sparling and Bryan Conway

SUBJECT: OREGON PUBLIC UTILITY COMMISSION STAFF:  
(Docket No. UM 1017) Expansion of the Oregon Universal Service Fund to include the Service Areas of Rural Telecommunications Carriers, extension of Memorandum of Understanding.

**STAFF RECOMMENDATION:**

Staff recommends the Commission adopt the "Motion to Extend the Effective Date on UM 1017 Memorandum of Understanding (MOU)" (Motion). The Motion, included as Appendix A, asks for a Commission order extending the existing MOU for an additional three years. Staff also recommends the Commission approve the ongoing line support amounts that were established for the incumbent rural telecommunications companies (rural companies) by the existing MOU. The support per line amounts that staff is requesting to be extended are shown in Appendix B.

**DISCUSSION:**

**Background Information**

The Commission on February 3, 2003, in docket UM 1017, issued Order No. 03-082, which expanded the Oregon Universal Service Fund (OUSF) to include the rural companies. Order No. 03-082 adopted a stipulation that outlined the methodology for computing company specific support per line based on each company's cost of service, the amount of federal support the company is receiving, and the benchmark rate<sup>1</sup>. The stipulation also specified that the first priority of the OUSF support is to reduce the Carrier Common Line (CCL) Access element revenue requirement. This stipulation also

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<sup>1</sup> Before any rural company can receive support, its cost of providing a loop, calculated using the separations rules defined in 47 CFR Part 36, less any federal USF support, less federal interstate loop support, must exceed a twenty-one dollar benchmark. The per line support amount that the company receives is the difference between its adjusted cost for a loop and the benchmark.

established the maximum time interval between updates of the embedded cost studies that produce the support per line. This was established in Paragraph 5 of the stipulation:

The interval for reviewing and updating the embedded cost calculations will not be longer than three years, unless extended by the Commission. Companies may request, or the Commission may initiate, a more frequent review, but not more frequently than once a calendar year. A company requesting a more frequent review will do so by November 15 for the previous calendar year. The OUSF study area support per line per month amount will remain unchanged until the next embedded cost review.

Staff conducted the first embedded cost studies in 2003. These studies were used to establish each of the rural company's monthly, OUSF support per line<sup>2</sup> that existed until 2006.

**2006 Memorandum of Understanding:**

In 2006 Staff updated each company's support per line based on the company's costs found in the 2004 Form I. Based on staff's updated cost review, the increase in the rural companies' support per line showed the annual disbursement from the fund to them would increase from \$8.9 to \$16.3 million, an 81 percent increase. Based on this study the OUSF surcharge rate would have increased by from 7.12 percent to 7.87 percent effective January 1, 2007.

Staff was concerned with the magnitude of the increase in the surcharge rate and conducted a workshop on March 8, 2006, to address the problem. This workshop was followed by another workshop on March 30, 2006, during which the rural companies elected to go along with staff's proposal to limit the overall increase for the rural companies to 15 percent and to allow staff to develop the support per line for each company based on this restriction.

The following bullets summarize the key points of the 2006 MOU:

- Based on the then current line counts, the projected distribution to rural companies was allowed to increase from \$8.9 million to just under \$10.3 million.

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<sup>2</sup> The definition of basic service is found at ORS 860-032-0190(2), which states "basic telephone service" means retail telecommunications service that is single party, has voice grade or equivalent transmission parameters and tone-dialing capability, provides local exchange calling, and gives customer access to, but does not include extended area service (EAS), long distance service, relay service for the hearing and speech impaired, operator service such as call completion assistance, special billing arrangements, service and trouble assistance, and billing inquiry, directory assistance and emergency 9-1-1 services including E-9-1-1 where available.

- The support-per-line amounts for each of the rural companies was set for the next three years based on an allocation of the \$10.3 million. The allocation ratio was established using the 2004 Form I information for each company.
- The support per line amounts were to stay fixed until the next triennial review in 2009.
- Any party was allowed to file a petition<sup>3</sup> to seek Commission review of the OUSF plan upon:
  - Issuance of an FCC order changing the federal contribution method, unless such change can only be implemented through legislation.
  - Issuance of an FCC order changing the intercarrier compensation mechanism if such order may have an effect on intrastate access charges or OUSF issues.
  - An increase to the contribution base or a decrease in the number of Eligible Telecommunication Carriers receiving support from the OUSF such that increasing the support per line does not increase the contribution or surcharge rates.
- The Commission's Order No. 03-082 in UM 1017 would not be changed by the MOU except for the interim limitation on the OUSF support per line calculation.

**2009 Memorandum of Understanding:**

On March 18, 2009, Mike Weirich, the Attorney for Commission Staff, and Richard Finnegan, the Attorney for the Oregon Telecommunications Association and the Oregon Exchange Carrier Association, signed a Motion to extend the effective date of the existing MOU for another three years and to maintain the current support per line amounts for three years as well. Prior to signing, all parties to the MOU were contacted to determine if any of them objected to the extension; none filed an objection.

If the Motion had not been signed, the support per line amounts would have been updated to reflect the current costs of the rural companies and those costs would have triggered a docket to review ways to control the increase in the surcharge rate. Richard Finnegan proposed the extension of the MOU for a number of reasons: his concern

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<sup>3</sup> The parties to the MOU agree that the interim limitation will not automatically terminate because a petition is filed, but will continue until the Commission issues a final order, which grants, denies, or takes other appropriate final action upon the petition.

about the substantial increase in the draw of the rural companies<sup>4</sup> and the resulting increase in the OUSF surcharge, uncertainty about what is going to happen at the federal level, and the cost associated with a docket.

**PROPOSED COMMISSION MOTION:**

The Commission:

- adopt the Motion to Extend the Effective Date of the UM 1017 Memorandum of Understanding; and
- issue an order:
  - approving the rural companies' support per line amounts shown in Appendix B effective with the July 2009 OUSF distributions; and
  - instructing OECA and the rural companies to apply the projected annual OUSF support, based on the revised support per line, as an offset first to the rural companies' intrastate CCL revenue requirement, contained in OECA's pending 2009 annual access charge filing<sup>5</sup>, and then to other services as specified in the stipulation adopted in Order No. 03-082.

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<sup>4</sup> Based on the triennial review just completed by staff, disbursements to the small companies would have increased from \$10.3 million to \$25.6 million, up by \$9.3 million since the 2006 review, and the surcharge rate would have increased to over 9% from the current 7.12%.

<sup>5</sup> OECA Advices 108 and 109, effective July 1, 2009, are scheduled for the June 30, 2009, Public Meeting.

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**BEFORE THE PUBLIC UTILITY COMMISSION OF OREGON**

UM 1017

In the Matter of the Investigation into  
Expansion of the Oregon Universal Service  
Fund to Include the Service Areas of Rural  
Telecommunications Carriers.

MOTION TO EXTEND EFFECTIVE DATE  
ON MEMORANDUM OF  
UNDERSTANDING

This Motion to Extend Effective Date on Memorandum of Understanding ("Motion") is brought jointly by the Public Utility Commission of Oregon Staff ("Staff"), the Oregon Exchange Carrier Association ("OECA") on behalf of its members and the Oregon Telecommunications Association ("OTA") on behalf of its members. Appendix A lists the members of OECA and OTA.

BACKGROUND

In Order No. 03-082 entered in this Docket, the Commission established the initial Oregon Universal Service Fund ("OUSF") support for rural telephone companies. The Commission further directed that a triennial review of the costs of the companies drawing from the rural company portion of the OUSF be undertaken.

In 2006, the first triennial review was undertaken. This review indicated that a substantial increase in the draw from the OUSF was a probable outcome of the review. Because of the effect that a substantial increase in the draw would have on the surcharge rate for the OUSF, various

MOTION TO EXTEND EFFECTIVE DATE ON  
MEMORANDUM OF UNDERSTANDING - 1

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1 alternatives were explored. As a result of that exploration of alternatives, a compromise proposal  
2 was developed by OTA and presented to the interested parties. That compromised proposal resulted  
3 in the adoption of a Memorandum of Understanding. A copy of the Memorandum of  
4 Understanding is attached as Exhibit 1. The Memorandum of Understanding was approved by  
5 Order No. 06-297.

6 As stated in the Memorandum of Understanding at Page 5, the terms of the Memorandum of  
7 Understanding were to remain in effect until the completion of the next triennial review.

8 It is now the time for the next triennial review to occur. Based upon a preliminary estimate,  
9 it is believed that the same type of result that was anticipated in 2006 would occur in 2009. In other  
10 words, there would be a substantial increase in the draw of the rural companies from the OUSF and  
11 a corresponding potentially large increase in the size of the OUSF surcharge. Because of  
12 continuing uncertainty at the federal level, the transactional costs for a major docket and other  
13 factors, OECA and OTA propose to Staff that the Memorandum of Understanding be extended until  
14 the next triennial review. Staff was willing to consider that extension after receiving the comments  
15 of the other parties in UM 1017.

16 By letter dated February 20, 2009, the proposed extension of the Memorandum of  
17 Understanding was delivered to counsel for the parties in UM 1017 that had participated to any  
18 extent in the first triennial review. A copy of that letter is attached as Exhibit 2. No party  
19 responded to the February 20, 2009, letter with an objection to the extension of the Memorandum of  
20 Understanding.

21 MOTION

22 Based upon the foregoing, Staff, OECA and OTA hereby move for an order extending the  
23 Memorandum of Understanding on the terms as set out in the Memorandum of Understanding until  
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25  
26 MOTION TO EXTEND EFFECTIVE DATE ON  
MEMORANDUM OF UNDERSTANDING - 2

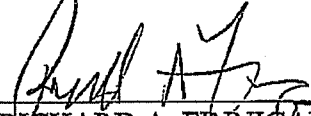
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1 the completion of the next triennial review or upon the happening of other conditions as specified in  
2 the Memorandum of Understanding.

3 Respectfully submitted this 16<sup>th</sup> day of March, 2009.

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By: \_\_\_\_\_  
MICHAEL T. WEIRICH, OSB No. 82425  
Attorney for Commission Staff

By:  \_\_\_\_\_  
RICHARD A. FINNIGAN, OSB No. 965357  
Attorney for the Oregon Telecommunications  
Association and the Oregon Exchange Carrier  
Association

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3 Respectfully submitted this \_\_\_\_ day of March, 2009.

4  
5 By:   
6 MICHAEL T. WEIRICH, OSB No. 82425  
7 Attorney for Commission Staff

8 By: \_\_\_\_\_  
9 RICHARD A. FINNIGAN, OSB No. 965357  
10 Attorney for the Oregon Telecommunications  
11 Association and the Oregon Exchange Carrier  
12 Association

**APPENDIX A**

Oregon Exchange Carrier Association

Asotin Telephone Company d/b/a TDS Telecom  
Beaver Creek Cooperative Telephone Company  
Canby Telephone Association d/b/a Canby Telecom  
Cascade Utilities, Inc. d/b/a Reliance Connects  
CenturyTel of Oregon, Inc.  
CenturyTel of Eastern Oregon, Inc.  
Citizens Telecommunications Company of Oregon d/b/a Frontier Communications of Oregon  
Clear Creek Mutual Telephone Company  
Colton Telephone Company d/b/a Coltontel  
Eagle Telephone System, Inc.  
Gervais Telephone Company  
Helix Telephone Company  
Home Telephone Company d/b/a TDS Telecom  
Midvale Telephone Exchange  
Molalla Communications Company  
Monitor Cooperative Telephone Company  
Monroe Telephone Company  
Mt. Angel Telephone Company  
Nehalem Telecommunications, Inc.  
North-State Telephone Co.  
Oregon-Idaho Utilities, Inc.  
Oregon Telephone Corporation  
People's Telephone Co.  
Pine Telephone System, Inc.  
Pioneer Telephone Cooperative  
Roome Telecommunications Inc.  
St. Paul Cooperative Telephone Association  
Scio Mutual Telephone Association  
Stayton Cooperative Telephone Company  
Trans-Cascades Telephone Company

Oregon Telecommunications Association

Asotin Telephone Company d/b/a TDS Telecom  
Beaver Creek Cooperative Telephone Company  
Canby Telephone Association d/b/a Canby Telcom  
Cascade Utilities, Inc. d/b/a Reliance Connects  
CenturyTel of Oregon, Inc.  
CenturyTel of Eastern Oregon, Inc.  
Clear Creek Mutual Telephone Company  
Colton Telephone Company d/b/a Coltontel  
Eagle Telephone System, Inc.  
Embarq  
Gervais Telephone Company  
Helix Telephone Company  
Home Telephone Company d/b/a TDS Telecom  
Midvale Telephone Exchange  
Molalla Communications Company  
Monitor Cooperative Telephone Company  
Monroe Telephone Company  
Mt. Angel Telephone Company  
Nehalem Telecommunications, Inc.  
North-State Telephone Co.  
Oregon-Idaho Utilities, Inc.  
Oregon Telephone Corporation  
People's Telephone Co.  
Pine Telephone System, Inc.  
Pioneer Telephone Cooperative  
Roome Telecommunications Inc.  
St. Paul Cooperative Telephone Association  
Scio Mutual Telephone Association  
Stayton Cooperative Telephone Company  
Trans-Cascades Telephone Company

## MONTHLY PER LINE SUPPORT

<b>Ln. No.</b>	<b>Company</b>	<b>Current Support/ln/mo</b>
1	Asotin	\$0.00
2	Beaver Creek	\$8.10
3	Canby	\$4.20
4	Cascade Utilities	\$2.71
5	CenturyTel	\$4.26
6	Citizens	\$3.53
7	Clear Creek	\$2.51
8	Colton	\$0.00
9	Eagle	\$7.24
10	Gervais	\$6.20
11	Helix	\$10.95
12	Home	\$1.95
13	Malheur	\$4.39
14	Midvale	\$0.00
15	Molalla	\$7.68
16	Monitor	\$9.21
17	Monroe	\$11.53
18	Mount Angel	\$0.26
19	Nehalem	\$1.75
20	North State	\$0.22
21	Oregon	\$0.00
22	Oregon-Idaho	\$8.43
23	Peoples	\$0.00
24	Pine	\$0.00
25	Pioneer	\$2.75
26	Roome	\$13.61
27	Scio	\$0.00
28	Sprint	\$2.94
29	Stayton	\$2.35
30	St. Paul	\$3.76
31	TransCascades	\$0.00