



August 6, 2020

VIA Email (HB3065Process@state.or.us)

Oregon Public Utility Commission
201 High St SE
Suite #100
Salem, OR 97301

**Re: HB 3065 COLR Public Process – Workshop #5:
Final Report to Legislature – OCTA Recommendations**

Dear Commissioners and Commission Staff:

The Oregon Cable Telecommunications Association (“OCTA”) appreciates this opportunity to provide written comments to help inform the Public Utility Commission of Oregon’s (“Commission”) report to the Legislature. HB 3065 directs the Commission to engage in a public process to investigate the continuing relevance of the carrier of last resort (“COLR”) obligations provided for under ORS 759.500 to 759.570, and provides that, no later than September 15, 2020, the Commission shall submit a report on the findings of the public process, which may include recommendations for legislation. At this time, the Commission has not published any proposed findings or recommendations for legislation, and accordingly, OCTA is not responding to any specific findings or proposals in these comments.

Throughout the workshops, OCTA has emphasized that COLR obligations—and any potential relief—are inextricably linked with Oregon Universal Service Fund (“OUSF”) support. In order to receive OUSF support, a provider must be an eligible telecommunications carrier (“ETC”), meaning that, among other requirements, it must commit to provide service to all requesting customers within its designated ETC area.¹ COLR relief would remove an incumbent local exchange carrier’s (“ILEC”) commitment to provide service to all requesting customers, and accordingly, in any geographic area for which an ILEC were to receive COLR relief it would necessarily be required to forego any further OUSF support.

OCTA requests that the Commission consider the linkage between COLR relief and the OUSF in its report to the Legislature. Finally, OCTA would appreciate an opportunity to review and comment on a draft of the report before it is submitted to the Legislature.

As requested in the Commission’s July 6, 2020 email to workshop process participants, OCTA addresses the Commission’s “COLR Recommendations – Framework Questions” below.

¹ See Order No. 06-292 at 6 and Appendix A, p. 1 (entered 6/13/06 in Docket UM 1217); see also Order No. 15-382 at 4 and Appendix A, p. 2 (entered 12/1/15 in Docket UM 1648).

Framework Questions for Recommendations

1. What are the key industry trends and policy directives that should be considered?

HB 3065(2) sets forth the developing industry trends and policy objectives upon which the Commission's investigation should focus, including:

(a) Customers whose individual circumstances and needs may impact their access to and usage of telecommunications services, including low-income customers;

(b) Residential customers with access at their domicile to fewer than two of the following terrestrial-based service alternatives:

(A) Telecommunications services provided by a facilities-based competitive local exchange carrier;

(B) Voice service offered via interconnected Voice over Internet Protocol;
or

(C) Voice service offered by a cellular communications service; and

(c) The comparability of voice service offered by wireless Internet service providers and satellite providers.

2. Do those trends and directives warrant COLR relief?

As noted above, OCTA takes no position at this time regarding whether or not relief from COLR obligations may be warranted at this time for any given ILEC in any particular geographic area within the State.

3. If so, what does COLR relief look like when implemented? Specifically, what would implementing COLR relief look like with regard to:

- a. **Existing residential customers? Include a description on how an ILEC could change availability, rates, terms, and conditions relative to existing customers to implement COLR relief.**

OCTA takes no position at this time regarding how an ILEC might change the availability, rates, terms, and conditions relative to existing customers to implement COLR relief.

- b. **New residential customers? Include a description of how an ILEC would make a determination on whether to provide service to a new customer. Include what factors would be used to make the decision, such as geographic location.**

OCTA takes no position at this time regarding how an ILEC would make a determination on whether to provide service to a new customer.

- c. **Provision of Lifeline services? Please describe how existing and future low-income program participants would be affected; include effects to federal programs and Oregon programs.**

The current carrier eligibility requirements for both the federal Lifeline program and the OTAP program require an ETC designation for a provider to obtain disbursements for providing discounted service to qualifying low-income customers.² As explained above, designation as an ETC requires that a provider to commit to provide service to all requesting customers within its ETC area.³ COLR relief removes an ILEC's commitment to provide service to all requesting customers. Accordingly, in any geographic area for which an ILEC were to receive COLR relief it would necessarily be required to forego any Lifeline and OTAP disbursements for providing discounted service to qualifying low-income customers.⁴

4. **Would COLR relief impact an ILEC's core network and interconnection to that network, or provision of services to non-residential customers?**

OCTA takes no position at this time regarding the possible impact of COLR relief on an ILEC's core network or provision of services to non-residential customers. OCTA notes that ILEC interconnection obligations with respect to competitive providers is governed by federal law and would not be altered in any by a grant of COLR relief.

5. **Would COLR relief impact telecommunication platforms that enable alternative telecommunications service?**

COLR relief is typically framed in terms of an ILEC's obligation to provide retail services to all requesting retail customers. As noted above, COLR relief would in no way alter an ILEC's obligations to provide interconnection and other carrier-to-carrier services to competitive carriers, as those obligations are governed by federal law.

6. **Would COLR relief impact safety and reliability?**

OCTA takes no position at this time regarding how COLR relief might impact safety and reliability. However, relief from the commitment to serve all requesting customers in a given area should have no bearing whatsoever regarding an ILEC's safety and reliability obligations with respect to customers to whom the ILEC provides service.

² OAR 860-033-0010(2).

³ See n. 1, above; see also 47 CFR § 54.202

⁴ Congress is considering proposed legislation that would remove the ETC requirements for participation in certain federal universal service support mechanisms, including Lifeline. See <https://www.multichannel.com/news/new-bill-expands-access-to-usf-subsidies>.

7. What changes to existing laws, rules, and policies would be required to implement COLR relief?

An ILEC's fundamental COLR obligations are imposed pursuant statute. Accordingly, COLR relief would require a legislative change to the Commission's authority.

a. What changes could be made within existing PUC statutory authority?

None. As noted above, ILEC COLR obligations are imposed by statute and COLR relief would require a legislative change to the Commission's authority.

b. What changes would require legislative action?

Any ILEC relief from COLR obligations would require legislative action.