

Oregon Public Utility Commission (PUC)
HB 3065 Carrier of Last Resort (COLR) Workshop #4
Response to Written Questions from PUC
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Responses provided to Questions 1 and 2. Question 1 focuses to income levels, with question 2 focusing to geographic location, which brings into play distance and density. The general comments on COLR issues are included in Question two.

Questions 3-9 are for debate between CenturyLink and the PUC staff. We reserve the right to offer comments later if we see data submitted that we know to be incorrect or inaccurate.

GVNW believes that COLR in Oregon has served the purpose intended in the areas served by rural broadband carriers. If the PUC grants COLR relief, some yet to be determined number of Oregon residents might not have a basic level of telecommunications services. That important data point, if present in the data, lacked transparency at the HB 3065 COLR work session #3 on May 14.

We recognize that COLR is not an easy issue, for either regulator or provider. Investing in high-cost, remote areas is a difficult and expensive process. It is not possible to assume away high costs. Publicly traded companies have investors to satisfy and lenders to pay back. The important third leg of the COLR triangle is the consumer whose circumstances dictate they are dependent on COLR-like service.

For those interested in the issue, it is important to note that state policy makers are investing in addressing the need to improve service across Oregon. On June 5, the state legislature approved \$20 million of Coronavirus Relief Fund from the U.S. Treasury to the Oregon Business Development Fund for three purposes: Approximately \$8.4 million for the purposes of lighting up an existing broadband network extending from Portland to Idaho via I-84 and back through Burns and Bend. Approximately \$1.6 million for school district projects aimed at establishing or improving connectivity needed for distance learning. The \$10 million balance administered through the Rural Broadband Capacity Program focused in regions of the state, including school districts that currently lack broadband.

Policy makers may well determine that adequate progress occurred in 2020 and that box is now checked. There is more to the story. Under the original HB 3065 schedule, Commissioners and staff were to travel around the state to meet what are now nameless and faceless citizens who have not received the promise of COLR service. There is some level of cost, if exceeded, renders service untenable given current technology and current support mechanisms and state budgets. This discussion should still occur. That benchmark dollar figure escaped the public record on May 14.

If COLR is eliminated for CenturyLink, the Oregon PUC must consider what number of Oregonians will be without a viable service option. Is the number 100, 1,000, 10,000 or some higher number? The answer is what this PUC and the Oregon Legislature must be able to support as a prudent public policy if this docket achieves its original intent. The consumers at risk are the most broadband-fragile in the communications ecosystem, and we expect the legislature will expect the number to be excluded will be very low. While energy policy is important to Oregonians, so is the ability to participate in the broadband paradigm. Oregon should be pursuing policies that promote the deployment and sustainability of scalable networks that will deliver quality and high-speed symmetrical broadband services capable of meeting today's and tomorrow's communications needs in Oregon.

1. ***If COLR relief were granted, what measures could be employed to protect customers whose individual circumstances and needs may impact their access to and usage of telecommunications services, including low-income customers? For example, what measures could be used to protect new and existing customers in areas where there are no service alternatives, or more costly service alternatives?***

Federal Lifeline or similar low-income assistance will not help where there is no service available. An appearance of choice does not translate to a reality of choice. Technology without a provider is a poor policy directive.

2. ***If COLR relief were granted, what measures could be employed to protect customers whose geographic location may impact their access to and need for various telecommunications services? Please include examples of how to ensure that customers living in low population density areas will have access to high quality, reliable telecommunications services, even if those services may differ from those provided in high population density areas.***

At the May 14 workshop, the presenters offered a great deal of data about the fact that CenturyLink has failed to remain the dominant provider in Oregon's metropolitan areas. What was missing was the story of how a subset of customers in the less populated areas have not realized the benefit of the state's current COLR requirements.

This next section provides a brief overview of that story. From the perspective of how the state of Oregon has treated COLR and COLR related policy issues, the history may be divided into three periods: Early encouragement; Interested Observation and now we enter the Digital Divide Decision.

Early encouragement

In the environment of 1-gigabit networks, it is easy to forget there were many decades where technology progress measures was the percentage of Americans who enjoyed basic telephone dial tone. The early encouragement phase characterizes both federal and state policies geared to adding customers to the network. This period concluded in the late 1970's as the FCC began to deal with competitive entry issues for carriers such as MCI.

Oregon was a full part of this gradual transition. Going back to the 1930's and 1940's, the PUC was a full partner in assigning territory to the old Pacific Northwest Bell rather than requiring rate reductions. Decades of policy promoting service for all Oregonians had its roots in this practice.

For rural carriers and cooperatives, the Rural Electrification Act was authorized in 1947 to provide low-cost loans to rural telephone companies and cooperatives. In establishing the telephone loan programs, Congress declared a policy of "assuring the availability of adequate telephone service to the widest practical number of users." 7 U.S.C. § 921. The House committee report for the legislation supported "area coverage," which entails "planning, financing and constructing a rural telephone system so that service will be available to all the

subscribers within the company's area who want, whether the installation of their particular telephone will be profitable or not." H.R. Rep. No. 246, 81st Cong. 1st Sess. (1949).

Interested Observation

With the advent of competition, the environment changed. The interested observation period continues in a sense to present day, but for purposes of this discussion, we will consider that concluding in 2019 as the Oregon PUC initiates this HB 3065 docket to consider whether some citizens will lack a service provider.

COLR policies and their predecessors originated in a time of analog technology with the sole focus of offering voice service. At one point, the choice was whether you had multi-party versus single party service. The compensation system was different as well. A single system of shared revenues and the resulting division of revenues is different from the explicit system of universal support mechanisms at the federal and state level. For most of the last four decades, the states have been keen observers with respect to COLR issues, in watching the federal experiment with what benefits would occur from competitive entry. The Oregon PUC exhibited great patience with the pace of progress in the now price cap carrier rural areas.

A quick caveat gleaned from prior experience. Using the word "observation" is prone to misinterpretation. It is incorrect to state that the PUC was in "observe mode only" for telecommunications and broadband. The crucial oversight and compliance tasks (e.g., oversight of support mechanisms and continuation of the State-Federal partnership) involved in state regulation required the diligence of scores of employees. A current discussion of these tasks is an integral part of the recent June 30, 2020 letter from NARUC¹ to the US Senate Commerce Committee. Page 2 and footnote 1 of the letter included a reference to the thorough investigative work of Oregon PUC staff related to the Sprint Lifeline subsidy issue.

While energy issues have consumed the Oregon PUC for several years, there have been periods where telecommunications was a more prominent portion of the PUC agenda. Over the last several decades. Commissioners of both parties have contributed important work to this regulatory effort. I mention briefly just two of the Commissioners I have had the privilege to observe in their public service. The late Ray Baum (Republican) addressed both Oregon issues in Salem and national issues in his roles with NARUC and continued his work with Congressman Greg Walden (R, OR) after leaving the PUC. Twenty years ago, Democratic State Senator Lee Beyer served on the Oregon PUC, focusing on PUC process and carrier accountability. Lee's concerns with both good process and accountability continue to this day in his role in the Oregon Senate representing Springfield.

¹ *Letter from National Association of Regulatory Utility Commissioners (NARUC) to Senate Committee on Commerce, Science & Transportation Chairman Honorable Roger Wicker and Ranking Member Honorable Maria Cantwell, Supplement to the Record of the June 24th Hearing on Oversight of the Federal Communications Commission (FCC), (June 30, 2020).*

Before we move to the third time segment, I must finish my homework assignment from May 14. During the May 14 workshop, the Chair posed a question to me on the data presented by Century Link's Phil Grate related to rural carrier line loss. A brief thank you to Mr. Grate for graciously sharing his data set and answering questions on the day before his recent retirement from CenturyLink. The short answer to the Chair's question is that including a 25-year data sample included the peak of the second line phenomenon for rural carriers in the dial up era. With the loss of most all of the second lines, the rural line loss over a two decade period was not intuitively obvious.

During the most recent special session², the Oregon legislature passed SB 1603, propelled in part because of the challenges school districts faced in implementing distance learning during the second quarter of 2020 shelter in place orders from the Governor of Oregon. The funding from SB 1603, plus the \$20 million detailed on page 1 of these comments earmarked for service improvements in Roseburg, Medford, Ashland, Klamath Falls, The Dalles, Pendleton, LaGrande, Ontario and Burns, presents a revised picture from when we began our journey together in this HB 3065 workshop process.

Digital Divide Decision

This current Oregon Commission finds itself having received the decision-making baton and could have significant impact on how the digital divide is bridged or exacerbated for some of the citizens in Oregon. This issue has been building to a decision point for years, and the current PUC has drawn the regulatory short straw. There are options, however, given the recent infusion of infrastructure money made available from the previously mentioned CARES and HB 3065 funding.

One of the issues that created this HB 3065 process was a desire on the part of Oregon PUC staff to understand the number of customers impacted by a decision to remove the COLR obligation from CenturyLink. Because there does not appear to be data in this HB 3065 public record to answer that data point, an easy decision would be to leave the COLR requirement in place unchanged.

With the new infusion of funding from CARES and SB 1603, another appealing option for the Oregon PUC to adopt is to wait 24 months to determine what positive impacts accrue from this new investment before making a final decision.

We predict most legislators will want all their voters connected to the network. Accordingly, we recommend using great care before making a hasty decision without adequate data to make permanent a digital divide in Oregon.

² 80th Oregon Legislative Assembly – 2020 Special Session Number One